

UNIVERSITÀ DEGLI STUDI DI MILANO
FACOLTÀ DI SCIENZE POLITICHE
DIPARTIMENTO DI STUDI SOCIALI E POLITICI
CORSO DI DOTTORATO DI RICERCA IN STUDI POLITICI
Ciclo XXV

BICAMERALISM OF THE EUROPEAN UNION:
DECISION-MAKING IN THE CONCILIATION COMMITTEE

SPS/04

CAMILLA MARIOTTO

TUTOR: FABIO FRANCHINO

COORDINATORE DEL DOTTORATO: ANTONELLA BESUSSI

ANNO ACCADEMICO 2011/2012

CONTENTS

<i>List of Figures</i>	v
<i>List of Tables</i>	vii
1. INTRODUCTION	1
Research Questions	2
The Approach	4
<i>Literature on Bicameralism and conference committee</i>	4
<i>Literature on EU Bicameralism</i>	6
Structure of the thesis	9
2. TOWARDS CONCILIATION	13
2.1. The codecision procedure	13
2.1.1. Issues and acts	17
2.2. The Conciliation Committee	19
2.2.1. Institutional functioning	21
3. THEORIES OF BICAMERAL BARGAINING AND THE CONCILIATION COMMITTEE	25
3.1. Disagreement value	26
3.1.1. Cooperative and non-cooperative games	26
3.1.2. Spatial models of European legislative politics	28
3.2. Institutions	30
3.2.1. Composition, amendment and voting rules	30
3.2.2. Constitutional reforms	33
3.2.3. The size of the Parliament's assembly	37
3.3. Uncertainty, veto threats and reputation	38

3.3.1.	The rapporteur	41
3.3.2.	The President of the Council	46
3.3.3.	Electoral cycles, reputation and audience costs	47
3.3.4.	Personality	48
3.4.	Representativeness and cohesiveness	50
3.4.1.	Cohesiveness	50
3.4.2.	Representativeness	52
3.5.	Implementation	55
3.5.1.	The Commission's role	55
3.5.2.	Implementation paths	56
	Conclusions	57

4. QUANTITATIVE TEXT ANALYSIS: WORDFISH AND ITS VALIDITY 61

4.1.	From official documents to Wordfish-usable data	62
4.1.1.	Document collection and data gathering	62
4.1.2.	Document processing	65
4.2.	Text analyses	68
4.2.1.	Wordfish	68
4.3.	Does Wordfish produce correct estimates?	72
4.3.1.	Comparison with EP success estimates based on five documents	74
4.3.2.	Hand-coding text analysis	81
4.3.3.	Comparison with expert-interviews estimates	90
	Conclusion	91

5. BARGAINING SUCCESS IN CONCILIATION 93

5.1.	Conciliation Committee dossiers	93
5.2.	Bargaining success	97
5.3.	Determinants of parliamentary success	106

5.3.1.	Institutions	107
5.3.2.	Uncertainty, veto threats and reputation	109
5.3.3.	Implementation	111
5.3.4.	New laws and package laws	113
5.4.	A summary of the variables	115
5.5.	Explaining the bargaining success in the Conciliation Committee	119
5.5.1.	Systematic effect of the parliamentary success	119
5.5.2.	Results from inferential analysis	120
	Conclusions	125
6.	CONCILIATION AND NEGOTIATORS	127
6.1.	Who is more successful?	128
6.2.	Disagreement value	131
6.2.1.	The Working Time Directive	131
6.2.2.	The Novel Food Regulation	133
6.2.3.	Third reading rejections	134
6.3.	Institutions	137
6.3.1.	Implementing and delegated acts	138
6.4.	The Negotiators	140
6.4.1.	The rapporteur	140
6.4.2.	The Presidency	146
6.4.3.	Impatience and the strategic use of time horizons	148
6.4.4.	The electoral cycle	150
6.5.	Personality	153
6.6.	Cohesiveness	155
6.7.	The role of the Commission	156
	Conclusion	161

7. MODELLING AND ANALYSING BELIEF MANIPULATION IN CONCILIATION	165
7.1. A model of conciliation: players, action, information and assumption	166
7.2. Four distributions of preferences	173
7.2.1. The Council's advantageous position	173
7.2.2. The Parliament in an advantageous position	175
7.3. Correct and incorrect beliefs	177
7.3.1. Correct beliefs	178
7.3.2. Incorrect beliefs	179
7.4. Belief manipulation	181
7.5. Analysing belief manipulation on the Telecoms Package	184
7.5.1. Setting the ground	184
7.5.2. The belief manipulation on the Telecoms Package	186
Conclusions	193
 8. CONCLUSIONS	 195
The findings	196
Further research	202
 APPENDIX	 203
List of European parties and their abbreviations	203
List of member states and their abbreviations	204
 BIBLIOGRAPHY	 205

List of Figures

Figure 2.1: The codecision procedure (art. 294 TFEU)	15
Figure 2.2: Example of the 4-column working document	23
Figure 3.1: Structural differences in the Conciliation Committee	32
Figure 3.2: Core of the Conciliation Committee	35
Figure 3.3: The winset of the status quo in a collective player	51
Figure 4.1: The csv file processed by JFreq	68
Figure 4.2: Word weights vs. Word fixed effects in COD/2010/0059	74
Figure 5.1. Codecision files per parliamentary term	94
Figure 5.2: Legislative acts of the dossiers	94
Figure 5.3: Policy areas of codecision files	95
Figure 5.4: Codecision files per country holding the Presidency	96
Figure 5.5: Codecision files per party group of the rapporteur	97
Figure 5.6: ω estimates of conciliation documents (3rd and 4th term)	99
Figure 5.7: ω estimates of conciliation documents (5th term, first 46 files)	100
Figure 5.8: ω estimates of conciliation documents (5th term, last 46 files).	101
Figure 5.9: ω estimates of conciliation documents (6th and 7th term).	102
Figure 5.10: The compromise position of the Conciliation Committee	103
Figure 5.11: The position closer to one of the two institutions	103
Figure 5.12: The revolutionary position of the Conciliation Committee	103
Figure 5.13: Parliamentary success, by legislative term and in total.	105
Figure 5.14: Voting in the Council, by legislative term and in total	108
Figure 5.15: Share of codecision files per size of the parliamentary assembly	109
Figure 5.16: Share of directives, by legislative term and in total	113
Figure 5.17: Share of new acts, by legislative term and in total.	114
Figure 5.18: Share of package laws, by legislative term and in total	115
Figure 7.1: Certainty and uncertainty of the Council	172
Figure 7.2: Extreme position of the Parliament	173
Figure 7.3: Extreme position of the delegation	174
Figure 7.4: Moderately recalcitrant Parliament	175

Figure 7.5: Strongly recalcitrant Parliament	176
Figure 7.6: Correct beliefs of strongly recalcitrant Parliament	178
Figure 7.7: Correct beliefs with moderately recalcitrant Parliament	178
Figure 7.8: Incorrect beliefs with moderately recalcitrant Parliament	179
Figure 7.9: Incorrect beliefs with strongly recalcitrant Parliament	180
Figure 7.10: Belief manipulation	182

List of Tables

Table 2.1: Codecision dossiers	19
Table 3.1: Hypotheses and related empirical analyses	59
Table 4.1: The incidence of conciliation	64
Table 4.2: Descriptive statistics on unique words.	72
Table 4.3: Frequency of parliamentary success (ω estimates based on 5 documents)	76
Table 4.4: Descriptive statistics of the independent variables	77
Table 4.5: The explanatory variables	79
Table 4.6: Determinants of differences in parliamentary success	80
Table 4.7: Classification scheme for hand-coding modifications	82
Table 4.8: Validity analysis through hand-coding.	89
Table 5.1: Incidence of Conciliation's positions	104
Table 5.2: Variables and expected relations with parliamentary success.	117
Table 5.3: Descriptive statistics of the dependent and independent variables.	118
Table 5.4: Frequency of parliamentary success	119
Table 5.5: Determinants of parliamentary success	121
Table 5.6: Predicted effects of the explanatory variables	122
Table 7.1: Correct and incorrect beliefs	177
Table 7.2: Policy outcomes	181
Table 7.3: Policy outcomes under belief manipulation	183
Table 8.1: Hypotheses on parliamentary success and empirical evidences	197

1. Introduction

In the aftermath of the sinking of the oil tankers Erika on December 1999 and Prestige on 13 November 2002, the Commission sought to overcome the shortcomings of the existing legislation which impeded member states to carry out technical investigations in a satisfactory and timely manner. In 2005 it drafted the 3rd Maritime Package (which contains two regulations and six directives), intended as a follow up of Erika I and II Packages. The proposal contained a directive establishing the fundamental principles governing the investigation of accidents in the maritime transport sector. According to the Commission, indeed, the aim of technical investigations was not to determine civil or criminal liability, but to find the causes of maritime incidents and improve maritime safety. In its first reading the Parliament adopted some amendments related to the protection of witnesses, the independence and power of the investigative body, the involvement of the European Maritime Safety Agency, the deadline for starting investigations, comitology and the fair treatment of seafarers. The common position limits the obligation for safety investigations (e.g. mandatory investigations have to take place only in case of very serious casualties and incidents) and retained certain flexibility and discretion when carrying out safety investigations. Several Member States, indeed, believed that the Commission proposal would jeopardize their maritime interests. Only few parliamentary amendments were included, namely on comitology. The Parliament, then, reinstated most of its amendments in the second reading and sought for conciliation.

Anticipated by several preparatory informal meetings between key negotiators of the Parliament and the Council, on 8th December 2008 the Conciliation Committee was convened in order to reach a joint text and was co-chaired by the vice-President of the Parliament and the French minister on Transport affairs. The most controversial issue was on the scope of application, that is the range of incidents covered by an obligation

of safety investigations. After long debate, the rapporteur, Jaromír Kohlíček (GUE/NGL, CZ), gave up to member states' demands, according to which such investigations should be restricted only to very serious incidents and that a preliminary assessment should be made to enable the investigative body to decide whether to undertake a safety investigation. Moreover, the directive ensures the principle of no parallel investigations by more than one member state. Finally, the Parliament obtained appropriate guarantees for the protection of witnesses.

This example shows how the Conciliation Committee works and how the outcome is clearly biased in favour of the Council. The Parliament, indeed, did not manage to convince the Council on the main substantial issue of the draft directive, that is to say, on the obligation of investigation. This conciliation dossier illustrates some of the key aspect of my investigation: the Council has a structurally stronger bargaining position than the Parliament, France is an old member state which experienced several times conciliation negotiations, the rapporteur comes from a small party (the GUE/NGL group), so he can neither express the view of the Parliament's majority nor issue credible veto threats. In other words, this example indicates that the legislative outcome is affected by the interactions between the two delegations and the two chambers. The study of the Conciliation Committee must focus not only on the substantive features of each chamber, but on the impact that these features have on the bicameral relations.

Starting from basic research questions on who gains more bargaining power in conciliation, the present analysis examines a series of factors that may bias the legislative outcome in favour of one chamber, rather than the other, in 179 dossiers, and then empirical evidence provides the confirmation of my expectations.

Research Questions

Most of bicameral legislatures are incongruent. When the two chambers may exhibit differences in preferences, resolving this disagreement becomes relevant. As Tsebelis and Money (1997) argue, the several procedures for conflict resolution affect legislative outcomes. Considering, thus, the final stages of a legislative procedure and the methods of how to solve intercameral conflicts is necessary to understand how legislators reach

to a compromise. Beside the navette system, the joint session and the ultimate decision by one chamber, the conference committee, which acts in a lot of countries and even in the European Union, is a unicameral mini-parliament with delegations of the two houses. How these committees operate eventually determines the balance of power between the chambers. The core of the argument is that ‘the composition of the conference committee, its decision-making rule, and the set of bicameral restrictions are critically important to the results of bicameral bargaining’ (Tsebelis and Money 1997, 118).

A thorough understanding of the dynamics upon which the Council and the Parliament negotiate in the Conciliation Committee is interesting and important. Not only it is the last chance the two negotiators to reach an agreement, but also such negotiations may have an effect backwardly, in the early stages of the codecision. Since the Treaty of Maastricht has been signed in 1992, scholars and politicians drew their attention to the newly inserted legislative procedure. It increased the parliamentary powers and the European Union was claimed to be an effective bicameral system. But, in less than five years shortcomings arose. The Voice Telephony directive displayed the power asymmetry between the Council’s and the Parliament’s delegation and the Parliament reached the absolute majority to reject the Council’s proposal. In Amsterdam member states reshaped the last stage of the codecision procedure: the two chambers have veto power both in the Conciliation Committee and at third reading. In addition, over the course of the last two decades this formal frame where interinstitutional relations take place has evolved into a more sophisticated system, where even informal processes are at work. This short overview of the conciliation stage in the European Union introduces the importance to investigate the decision-making when bicameral conflict resolution operates.

In other words, when the European Parliament and the Council of Ministers employ a conference committee to settle ultimately the differences that may arise during the adoption of legislation, how does this Conciliation Committee operate? The present analysis aims at tackling this question, that is, who wins in these negotiations, the Council or the Parliament? Moreover, are they on an equal footing? Why and under which circumstances can the Parliament be more successful within the committee?

I argue that the Conciliation Committee produces outcomes that are systematically biased in favour of the Council, but there are factors that may be of benefit for the Parliament. First, the Parliament has been more successful after relevant constitutional reforms. Second, parliamentary negotiators may influence the decision-making when they come from large party and rely on expertise, because they may issue an easily executable veto threat or a tough proposal, manipulating the Council's belief. Third, the support from the Commission is crucial to parliamentary success. Fourth, time constraint and electoral cycle may strengthen the Parliament's bargaining position vis-à-vis the Council. Fifth, the Parliament may manipulate the Council's belief about its own type and it may convey wrong signals to gains more benefits.

The Approach

The theoretical framework used throughout the analysis is drawn by the work of rational choice institutionalists. Their analytical tools provide the ground for the combination of general models of bicameral legislature and the literature on European politics. When used in conjunction these two strands of literature, indeed, predict that bicameralism in the European Union is biased in favour of one chamber, instead of the other, and that the Council and the Parliament negotiate in environments with incomplete information, veto threats or belief manipulation.

Using the combination of these two theoretical approaches is not new (Franchino 2007; König et al. 2007; Kreppel 2002; Rasmussen 2011; Tsebelis and Money 1997), but it is particularly important for this type of research, because it sheds some light on dynamic process of bicameral conflict resolution. The connection between general literature on the concept and on the European integration cannot overlook on this last stage of the codecision procedure. It is important, indeed, when looking at bicameralism to understand fully the impact that both chambers have on the final legislative outcome.

Literature on Bicameralism and conference committee

The most comprehensive analysis on bicameralism is Tsebelis and Money's (1997) work. They move from historical development to elaborate spatial theories in order to

give account of important differences among bicameral systems. In particular, they demonstrate how varieties of bicameralism affect relative chamber power. Conference committees play a relevant role in facilitating the compromises among the legislators, but the location of the final outcome in a multidimensional bargaining space depends on their composition and, consequentially, their preferences. However, some aspects of decision-making within conference committee depends on the level of information shared by the negotiators and whether the committee members enter into a long-term interaction, such as in the United States (Longley and Oleszek 1989).

A large body of the literature focuses on inter-chamber power, looking at the US Senate or the House as winning actors in conference committee (Ferejohn 1975; Gross 1980, 1983; Kanter 1972; Vogler 1970). The evidence shows that the Senate wins more often, because it has a second mover advantage (Strom and Rundquist 1977).

On the other hand, a second group of studies on conference committee have investigated the effects it has on intra-chamber power distribution. Scholars have debated indeed whether conferees are able to influence policy by being delegated by their parent chambers as a means of promoting bicameral agreement and avoiding the risk of failure associated with bargaining between the chambers (Krehbiel, Shepsle, and Weingast 1987; Ortega and McQuillan 1996; Shepsle and Weingast 1987; Vander Wielen 2013). To some extent, these theories do not offer an account on intracameral organization and the logic of representativeness behind the policy implications of inter-cameral interaction. A recent theoretical model of Gailmard and Hammond (2011) emphasizes that the relationship between the parent chamber and the delegates is extremely relevant in the definition of representative delegation in order to extract more concession from the other chamber. However, the two scholars argue that there is a tension in the optimal committee design between the chamber's desire for a representative and a tough (although unrepresentative) delegation.

On the whole relationship between the two chambers, the literature looks also to the distributional effect of concurrent majorities associated with bicameralism. Certainly, the main implication derived from the "divide-the-dollar" game of Baron and Ferejohn (1989) as well as the extension of McCarty (2000a, 2000b) regards the use of super-majority requirements. Super-majority, indeed, benefits chamber members as it ensures

that many representatives of that chamber are included in any winning coalition. Ansolabehere, Snyder and Ting (2003) develop a distributive model of bicameralism which relies on dual representation of the chambers.

Finally, important contributions on bicameralism stress the US executive-legislative relation, rather than bargaining between the House and the Senate. Cameron's (2000) influential work suggests that Presidential veto can have a profound influence in inter-branch bargaining. Even though the President is involved only marginally and at the end of the legislative process, its veto threat represents a potential strategy to extract concessions in case of divided government in Congress. Consequently, veto threats prove to be an effective bargaining tool when legislators negotiate in uncertainty about what policy the other chamber will accept (Cameron and McCarty 2004; McCarty 1997).

Literature on EU Bicameralism

Although my main objective is to investigate on how the Conciliation Committee works, both formally and informally, the study on bicameralism in the EU, indeed, is still in the early stages compared to the themes and concepts investigated by the general literature on the subject.

Bicameral politics in the European Union has developed only recently, since the important contributions of scholars from the rational choice institutionalism. This approach has shifted the debate from the discussion between neofunctionalism (Haas 1958) and (liberal) intergovernmentalism (Hoffmann 1966; Moravcsik 1991, 1993, 1998), to focus on bargaining within the institutions, preference configurations, stages of actions and bargaining power. Rational choice institutionalism focuses on formal and informal day-to-day decision making inside the European institutions, through the development of both theoretical models and empirical analyses. I will review this literature, by dividing it into three groups.

The first strand studies spatial models of legislative politics and the procedure under which, after the Commission's proposal, the Council and the European Parliament shape EU law. Upon several assumptions, the models are extremely useful to compare different European legislative procedure (Crombez 1997, 2001; Steunenberg 1994,

1997; Tsebelis and Garrett 2000). These models are primarily interested in identifying an equilibrium and the winset of policies the two legislative actors may enact, but the success of a chamber is determined by an arbitrary assumption about the first mover or a random recognition rule.

The second group of literature investigates the factors influencing the decision-making process inside either the European Parliament (Häge and Kaeding 2007; Hix, Noury, and Roland 2005, 2007; Hix and Noury 2009; Hix 2002) or the Council of Ministers (Hagemann and Hoyland 2008; Hagemann 2007; Hosli, Mattila, and Uriot 2011; Mattila and Lane 2001; Mattila 2004, 2009) in isolation. In the parliamentary case, scholars concentrate on the dimensions of contestation and party coalition across different legislatures and using different methods (e.g. NOMINATE and roll-call votes as well as expert survey) (Hix and Noury 2009; McElroy and Benoit 2007, 2010; McElroy 2007). In addition, the role of the rapporteur has drawn increasing attention, since they perform a leadership role within the committee and negotiating role with the Council, especially under the codecision procedure (Benedetto 2005; Costello and Thomson 2010, 2011; Häge and Kaeding 2007; Hoyland 2006; Mamadouh and Raunio 2003; Shackleton 2000). On the contrary, in the Council's case, scholars focus on the cleavages and coalitions across legislatures and policy areas, investigating the member states' voting behaviour (Arregui and Thomson 2009; Bailer, Mattila, and Schneider 2010; Bailer 2006, 2010; Stokman and Thomson 2004; Zimmer, Schneider, and Dobbins 2005). Finally, despite the pivotal role of the rotating Presidency, its influence on the legislative process is matter of scholarly debate (Tallberg 2003, 2004, 2006; Thomson 2008; Warntjen 2007, 2007).

The last important group includes theoretical models and empirical analysis on bicameral conflict resolutions in the EU. Analyses focus on two main instruments: early agreements and the Conciliation Committee. The former is not properly a conflict resolution method *per se* but such agreement are reached using informal meetings between key negotiators of the Council, the Parliament and the Commission at the early stage of the codecision procedure (Farrell and Héritier 2004; Rasmussen 2011; de Ruiter and Neuhold 2012; Toshkov and Rasmussen 2012).

The Conciliation Committee, on the other hand, is a conference committee, which is convened after that the Council failed to adopt the Parliament's second reading amendments. Since Conciliation Committee is not frequently employed in European legislature to solve outstanding disagreements over a bill, it has so far received little attention. The first contribution, that of Garman and Hilditch (1998), examines the informal processes at work during negotiation on four dossiers and demonstrates the importance of exploratory meetings in the conciliation process, far in advance of the formal conciliation meetings have been established. By contrast, Rasmussen (2005, 2008) uses the literature on the principal-agent model and considers the chain of formal and informal delegation at conciliation stage. Two stages of delegation, indeed, operate. The first entails the two chambers with the respective delegation groups, the second one entails the conciliation delegations with the key negotiators. Expert interviews demonstrate that delegates do not act irresponsively, because they are subject to strict control and sanctioning mechanisms as well as they are "driven by a desire to do what is appropriate for their legislative body" (Rasmussen 2005, 1029). In the later work with roll-call votes, she finds out that, despite a systematic overrepresentation of MEPs coming from the standing committees and from big party groups, delegates generally are representative of their parent bodies. More interesting for my purposes are the analyses of Napel and Widgrén (2003, 2006) and König *et al.* (2007), since they are concerned on the distribution of preference and bargaining power between the two institutions. Napel and Widgrén develop a theoretical model on how conciliation works, assuming that the Council and the Parliament have complete information, although different voting threshold – qualified majority for the former and simple majority for the latter. This institutional set-up produces indirect procedural advantage in favour of the Council, because its pivotal member is likely to have a higher disagreement value than the respective member in the Parliament. As a result, in conciliation there is asymmetry of power and different bargaining positions. However, the most systematic empirical research on this issue is of König *et al.* (2007). In the 1999-2002 period, the negotiations are biased in favour of the Parliament. Moreover, the Strasbourg assembly is more likely to win over the Council when it is more proximate to the status quo and it is cohesive. A surprising finding is the role played by the Commission. Having the

Commission on the plenary's side is likely to increase its bargaining power, because "the Commission seems to have informational advantages and is an active mediator between the two institutional actors" (König et al. 2007: 302).

Reviewing the literature on European bicameralism, two argumenta are self-evident. First, the analyses conducted so far do not assume that both houses affect legislative outcomes. Scholars, indeed, rarely focus on interinstitutional bargaining and how the Council and the Parliament may negotiate throughout the codecision procedure. Second, some of these contributions on the Conciliation Committee are limited to either the study of one separate delegation, neglecting the other and their relations, or time-specific. Others are non-analytical and fact-listing stories. Some are not comprehensive or systematic.

Even though Conciliation Committee is technically speaking a conference committee, the haggling dynamics may be read through the lenses of the bargaining theory. The bicameral politics of the Conciliation Committee is the ultimate manifestation of the legislative politics of the European Union. Conciliation is about bargaining between the Council and the European Parliament in order to reach an agreement over "an authoritative allocation of resources" (Doron and Sened 2001, 7). Like other bargaining settings, conciliation bargaining shares core common elements: at least two players, which differ in interests and preferences. Locked in an interdependent relationship, they negotiate under a set of constraints, using their ability or specific skills to reach an agreement.

Structure of the thesis

The thesis is organized as follows. Chapter 2 introduces the institutional set up of the Conciliation Committee. It includes the codecision procedure that the Council and the Parliament have to follow before conciliation is convened, analysing the development and constitutional reforms of such legislative procedure occurred across the two decades since it was established. In addition, I highlight the main negotiators and the role of both the delegations and informal meetings.

Chapter 3 develops the main theoretical arguments of bicameral bargaining and the Conciliation Committee. The theory combines the institutional approach to the study of European integration with the application of game theoretic models to study bargaining mechanisms. I proceed gradually in describing the circumstances under which the Parliament may be more successful in conciliation than the Council. The two delegations may attach different values to the status quo, within a constraint of institutional settings. Legal rules and implementing enforcement mechanisms are likely to contribute to conciliation bargaining as well as time deadline the negotiators have to deal with. Bargaining outcomes are affected by the number and the type of actors involved. In conciliation, the Parliament and the Council may have at their disposal skills or instruments to strengthen their bargaining power vis-à-vis the other chamber: they may issue veto threats and be subject of belief manipulation. A third actor, without legislative power though, may exert influence and facilitate the compromise towards its own stances: the Commission. The Commission may be involved in the implementation process. Finally, the electorate may affect the deputies' room of manoeuvre. From these theoretical argumentations I derive hypotheses that will be tested in the empirical Chapters.

Chapters 4 through 7 provide the main empirical analyses in the research.

I begin with Chapter 4 with methodological excursus on how I estimate bargaining success and institutions' position in each conciliation dossier using three documents (the second reading of the Parliament, the Council common position and the joint text). I explain in detail how the original documents have been treated to produce the data on which a procedure to estimate the similarity of documents, called Wordfish, is run. A significant section of the Chapter is devoted to test the validity of these estimates, by comparing them with those produced using five documents (adding the Commission proposal and the first reading of the Parliament), hand-coding and expert interviews.

Chapter 5 provides the quantitative empirical test of my arguments and marks a significant departure from previous studies on Conciliation. I test the impact of several factors on the bargaining success the Parliament has on legislative dossiers producing a joint text from the entry into force of the Treaty of Maastricht to February 2012.

Chapter 6 gives a qualitative insight on some conciliation cases. Since I interviewed prominent negotiators of the Parliament as well as of the Council, I take into account as many factors as possible, especially related to party membership, experience of the Presidency and the role of the Commission. Besides, additional explanatory factors are more contingent and specific of certain dossiers, such as negotiator's personality and the attention to the electoral constituency by deputies.

Chapter 7 focuses on the interesting dynamics of belief manipulation. After developing a formal model of conciliation under incomplete information, I select the case of the Telecom Package as analytic narrative to explain how Parliament may extract more concessions from the member states if it manipulates the Council's belief on its own type.

In the conclusion, I draw the concluding remarks and review the main findings of the research. Finally, I explore possible indications for further research.

2. Towards conciliation

This Chapter presents the last procedural steps towards conciliation in the codecision, now the ordinary legislative procedure. The first section illustrates the legislative process and its major changes occurred over the last decades. In particular, it focuses on the modification of the conciliation stage under the second version of the codecision and on the gradual extension of the qualified majority voting to issue previously subject to unanimous agreement in the Council. Moreover, the codecision procedure has expanded its scope of application to policy areas previously demanded to cooperation or consultation, thus increasing the number of acts concluded under such legislative process. The second section sheds light on the conciliation stage, the actors involved and the restricted informal meetings.

2.1. The codecision procedure

The codecision procedure was introduced with the Treaty of Maastricht in 1993 (under article 189b) and later amended by the Treaty of Amsterdam in 1999 (art. 251). With the entry into force of the Treaty of Lisbon in December 2009, it was renamed the ordinary legislative procedure.

According to Article 294 of the Treaty on the Functioning of the European Union, after the submission of a proposal by the Commission, the Parliament issues the first reading's opinion. The Council may either adopt the measure in the wording approved by the Parliament or adopt its own common position (or Council's first reading) if it disagrees with its fellow chamber. Within three months, the Parliament can reject or amend the Council's text by absolute majority. If the Parliament fails to act or approve the document by simple majority, the proposal is deemed to have been adopted in the wording of the Council first reading. After further three months, if the Council does not

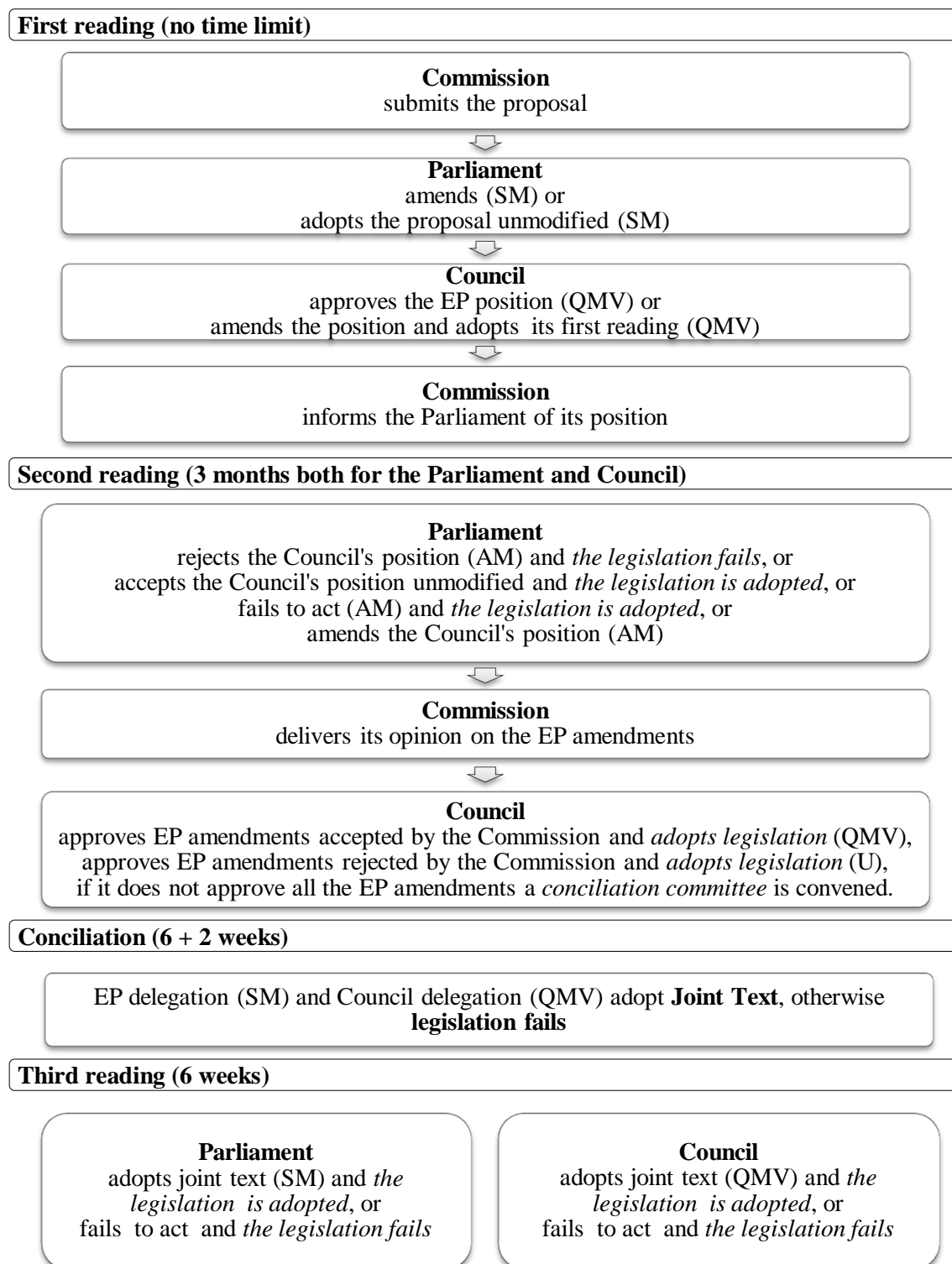
approve the parliamentary amendments¹, the Presidents of the Council and of the Parliament convene a meeting of the Conciliation Committee to resolve the remaining differences between the two institutions. In other words, conciliation is necessary when either a qualified majority of or, for amendments rejected by the Commission, the whole Council has failed to approve the amendments inserted by the Parliament after reading its common position.

The objective of conciliation is to produce, within six weeks, a joint text supported by a qualified majority of Council delegates and an absolute majority of parliamentary delegates. The Commission takes part to the conciliation negotiations without a right to vote. If agreement is found on a joint text, this document is subject to the third reading in both chambers. It is voted upon within six weeks, under closed rule and by qualified and simple majority in the Council and Parliament respectively. Unless government changes have incurred in the meanwhile, the Council vote is perfunctory because the composition of this institution and of its conciliation delegation coincides. For the Parliament instead, the combination of closed rule with simple majority provides the conciliation delegation with a significant agenda setting power vis-à-vis the plenary. A conciliation report automatically fails if it is rejected in one legislative body and there is no option to call a new conference or to amend the text further in order to overcome differences between the two bodies.

Figure 2.1 illustrates in detail the whole codecision procedure with the voting rule employed by the institutional actors at different stages.

¹The Commission delivers its opinion on parliamentary amendments, both at first and second readings. Council approves by qualified majority those amendments that are supported by the Commission, unanimously the unsupported amendments.

Figure 2.1: The codecision procedure (art. 294 TFEU)



Note: SM = simple majority; AM = absolute majority; QMV = qualified majority voting; EP= European Parliament

The procedure has changed over time. Under the Treaty of Maastricht, the Council could not conclude the procedure and adopt a final act after the first parliamentary reading, nor could the Parliament do so at its second reading. The definitive adoption was a Council prerogative. The Treaty of Amsterdam introduced the possibility for the European Parliament and the Council to conclude legislation as early as the first reading. The Council, indeed, agrees on first reading amendments of the Parliament, without continuing decision-making with a common position. The sheer volume of fast-track legislation (in the sixth parliamentary term 72 per cent of acts were concluded at this stage, as you can see below) increases the demand of comprehensive theoretical explanations and empirical investigations. Researches have explained why early agreements occur (Rasmussen 2011; Reh et al. 2011) and the influence they have on intra-organizational relations in the Parliament and Council (Farrell and Héritier 2004). Fast-tracked legislations, though, are the results of informal negotiations among a restricted set of institutional actors (the trialogues), who often operate on a non-transparent mandate from the parent bodies (Farrell and Héritier 2004; Kardasheva forthcoming; Shackleton and Raunio 2003).

More important for my purposes, prior to the Treaty of Amsterdam if negotiations within the Conciliation Committee failed, the Council could make a final take-it-or-leave-it offer to the Parliament, which had to muster an absolute majority to halt irrefutably the proposed measure. In other words, in the circumstances where the Conciliation Committee did not agree a joint text, the Council could have reinstated its common position, without taking into account the parliamentary amendments at second reading. This last procedural step strengthened, at least in principle, the negotiating hand of the Council (Garrett and Tsebelis 1996; Garrett 1995), but this prerogative has been used only once. After the two delegations disagreed over comitology in conciliation meetings on the draft directive on Voice Telephony (COD/1994/437), the Council re-proposed its common position. The Parliament replied firmly and it succeeded in finding the absolute majority (377 members voted in favour of the rejection) needed to reject the proposal. In addition, the Parliament introduced a new rule of procedure (rule 78), whereby it would ask the Commission to withdraw its proposal if the Conciliation Committee failed to reach agreements. If the Commission

failed to act and the Council decided to repropose its common position, the Parliament would automatically propose a motion to repeal such position. Even though this was just an internal rule of procedure, according to Hix (2002) it had effect. When the Conciliation Committee failed to find agreement on a bill on Transferable Securities in 1998 (COD/1995/188), the Council decided not to reconfirm its common position.

The insertion of rule 78 and the credible threat of the parliamentary rejection paved the way to further amendments of Treaty provisions. In the Treaty of Amsterdam, the member states adopted a more proper bicameral set-up of the codecision procedure. The second version of such procedure, indeed, establishes shared legislative power between the Parliament and the Council.

A second, less noted, procedural change was the modification of the voting rule in the Council. Depending on the Treaty provisions a policy issue is subject to, the Council has to decide unanimously or by qualified majority voting. Next treaties have, however, modified the legal bases of policy issues. The Treaty of Maastricht, for instance, specified that measures in the fields of culture (art. 128) as well as the multiannual framework programme in research and technological development (art. 130i) were to be adopted following the codecision procedure, but the Council will have to act unanimously. The Council's bargaining hand was presumably stronger in these cases as it could credibly threaten rejection if just a single minister was not happy with the proposal at hand. Qualified majority voting was extended to the framework programme by the Treaty of Amsterdam and to cultural policy (article 167) by the Treaty of Lisbon. Even the Treaty of Nice extended the application of the qualified majority voting to new issues, such as the measures to facilitate the exercise of the right of free movement and residence for European citizens (article 18 of the Treaty of Nice, now in article 21b of the TFEU).

2.1.1. Issues and acts

From only fifteen in 1993, the number of policy areas that are regulated through the codecision procedure has now increased to eighty. In the Maastricht Treaty, the

procedure covered areas, such as internal market, public health, consumer protection, educational and cultural measures, free movement of workers, framework programme for research and guidelines for trans-European networks. The Amsterdam Treaty substantially extended the list up to 32 areas, which were previously subject to the cooperation procedure. It included a wealth of new areas, namely on transport, the fight against fraud, development cooperation, environment policy, customs cooperation, some social policy and employment measures (Corbett, Jacobs, and Shackleton 2007). Moreover, the Treaty of Nice in 2003 and the most recent Treaty of Lisbon in 2009 prescribed that the codecision procedure applies to more than 80 areas under the first pillar. The Treaty of Lisbon for instance extended its coverage to several subfields, the most important of which relate to trade policy, transport, structural funds, budget and agricultural policies. In the area of agriculture, for instance, the reform of the common agricultural policy is now subject to the co-legislation of the Parliament and the Council.

Accordingly, the number of bills increased dramatically. From 245 acts adopted in the 1994-1999 term to 522 in the 1999-2004 term. Table 2.1 illustrates the number of dossiers subject to codecision procedure, according to the stage of conclusion. The trend towards first reading agreements is clearly visible. After the Treaty of Amsterdam, that made early agreements possible, there was a significant increase of first reading adoptions. In the fifth legislative term early agreements were employed almost once every three adopted acts. In the sixth and seventh legislative term, there is a clear increase in the number of files concluded at first reading. More than two third of dossiers were early agreements. On the other hand, there has been a significant reduction in the number of conciliation dossiers over the last two legislative terms.

Table 2.1: Codecision dossiers

EP legislative term	1 st reading	2 nd reading	Conciliation	Total
1993-1999	11	138	63	245
1999-2004	159	234	86	492
2004-2009	358	136	23	522
2009-	181	34	7	222
Total	709	542	179	1481

Source: OEIL database, accessed on 28 March 2013.

Note: Only completed dossiers are reported.

The drop in the employment of conciliation dossiers and, conversely, the rise in the early agreements could indicate better working of the mechanisms of inter-institutional cooperation throughout the entire legislative process. Formal constitutional changes in codecision – both the possibility of early conclusions and the bicameral set-up in conciliation – lead improvements in the relations between the Council and the Parliament from the initial stages of the legislative process. As a result, an even reducing and occasionally being used space of bicameral bargaining appears to becoming the other side of the coin. Despite the fact that early agreements occupy the large share of concluded acts, conciliation still matters, since it is now a proper mechanism to settle disputes.

2.2. The Conciliation Committee

The Conciliation Committee is composed of members of the Council and Parliament in equal number and co-chaired by the President of the Council (the minister, the deputy minister or the permanent representative of the member state holding the Presidency) and by one of the three parliamentary vice-Presidents. As a result, after the last enlargement there are twenty-seven representatives of the member states and twenty-seven members of the Parliament. Since the size of the two delegations equals the number of member states, the Council delegation is essentially the Council, where the chief negotiations are normally the deputy permanent representatives chaired by the minister holding the Presidency (Rasmussen 2005, 2008, 2012; Tsebelis and Money

1997). The parliamentary delegation must include the chair and the rapporteur of the committee responsible for the case at hand as well as three vice-Presidents, representing at least two different political groups, appointed as permanent members in successive delegations for a period of 12 months. This composition represents a compromise between two existing models of conference committee's delegates: the US conference committee and the German Vermittlungsausschuss. The three permanent members who handle each and every item coming to the committee, are similar to the German committee's members, since they are experts in the procedure and follow other conciliation dossiers during the term. The other members guarantee broad participation and continuity with prior stages of codecision, as the US delegates. The non-permanent members, indeed, are predominantly drawn from the standing committee responsible for the matter. In addition, in the case the matter falls equally within two or more committees, the Parliament's delegation shall include the rapporteurs of any associated committee (rule 50). The Parliament's rules of procedure (rule 68) prescribe the composition of its delegation to reflect the whole assembly by political groups², following the D'Hondt allocation method. Once the conference of Presidents determines the number of members per group, such deputies (and their substitutes) are then appointed by the party groups themselves (Corbett, Jacobs, and Shackleton 2007; European Parliament 2012). In the quota of each party group those members whose presence is required ex-officio take part (e.g. during the Conciliation Committee for the regulation on Financing instrument for development cooperation – COD/2009/0060A – the People's Party provided both the rapporteur and the permanent vice-President, so it has only nine more places to fill).

Lastly, the Commission, which plays a mediating role and frequently proposes compromises, is represented in the trialogues by either the Commissioner or the

² At the beginning of each parliamentary term the conference of Presidents determines the political composition of the delegation in line with the relative strength of the political groups. After 2009 European elections the parliamentary composition is as follows: eleven members from the People's Party, seven Socialists, three Liberals, two from the Green group and from the Conservatives, one each from the GUE and the EFD. The three permanent members are included in the quota of members laid down for their political group (European Parliament 2012).

Director-General of the department in charge of the dossier, assisted by experts, its legal service and Secretariat-General.

2.2.1. Institutional functioning

A lot of negotiators are in the conciliation rooms. Aside the official fifty-four members, substitute members, advisors and assistants as well as the Commission's entourage provide support to the two delegations. Formal negotiations at conciliation become then fairly impractical, as over a hundred people are in the negotiating rooms when the full Conciliation Committee meets. As early as 1995 a trend emerged of preliminary informal contacts being taken between the relay actors of the Parliament and the Council, with the Commissioner responsible, normally no more than 10 people for each side (European Parliament 2012). Especially for highly controversial dossiers, negotiations are conducted during informal trialogues involving small teams of negotiators and they "shall take place throughout the conciliation procedure with the aim of resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee"³. The compromise resulting from the informal trialogues is then reported back to each delegation where they need to approve with the qualified majority in the Council and simple majority in the Parliament.

The practice of informal restricted meetings between the three institutions became an essential part of the conciliation negotiations and of the legislative process as a whole, since the Spanish Presidency in 1995. After the first parliamentary rejection of the conciliation agreement for the Biotech directive (COD/1988/159), preparatory negotiations for the Conciliation Committee have been organized informally. Representatives of the Parliament, the Council and the Commission have started talking to each other routinely, strengthening contacts between the institutions. The 1999 and 2006 formulations of revisited Joint Declarations on practical arrangements for the codecision procedure have played useful role in facilitating bargaining, by making official the employment of trialogues throughout the whole codecision procedure, rather

³ OJ C145, 30.6.2007, p.5

than only in the conciliation phase⁴. Especially the last Joint Declaration introduced detailed provisions concerning first and second reading agreements.

These informal negotiations are carried only by a subset of key members from the Council and the Parliament, according to their competence and leadership position, and by the Commissioner or high ranking officials of the relevant Directorate-General. The key representatives from the Council are the responsible working group chairman and deputy permanent representative (Chair of the COREPER I or II respectively) or the Minister of the member state holding the Presidency. The parliamentary negotiating team is represented by the responsible vice-President, who co-chairs the Conciliation Committee, the rapporteur and the chairman of the responsible parliamentary committee. Most of the bargaining occurs between the key representatives of the two chambers, but they need to report back to their own delegations once they deem to have a solution on a conflicting issue. The negotiating teams shuttle from the restricted meeting room to the delegation rooms in order to update their parent delegations on the bargained position. This navette system lasts until agreement is reached or the deadline is occurred, which is six (or eight) weeks after the Council's common position. However, usually the Conciliation Committee is convened after several preparing meetings of the trialogues, because there is a reasonable expectation the agreement would be reached. For this reason, the Conciliation Committee meets on the last useful day before the time limits.

Negotiations in trialogues and in the Conciliation Committee follow the principle of germaneness in practice. The scope of the joint text, indeed, may not alter the scope of the Commission proposal (Rasmussen 2011). According to the opinion of the Advocate General before a recent Court ruling, "the joint text should have the same subject-matter as the original Commission proposal"⁵. To the negotiating teams at trialogues a four-column working document is given. The document sets out the positions of the Parliament, its second reading, and the Council, its common position, along with the updated positions of the two delegations. Negotiations tend to be germane, with the two

⁴ In the present research, though, the term "trialogue" refers only to those preparatory and bargaining meetings at the conciliation stage.

⁵ Case C-344/04, Paragraphs 86 and 98

delegations bargaining over these positions. Figure 2.2 is a snapshot of one of the amendments under discussion during the conciliation meetings for the directive on the 3rd Maritime Package (COD/2005/0240). Negotiators received the document, with the Council's common position and the Parliament's second reading, and they fulfilled it according to the updates emerging in the bargaining within their own delegations: the COREPER and the parliamentary delegation.

Figure 2.2: Example of the 4-column working document

COUNCIL COMMON POSITION	EP AMENDMENTS (SECOND READING)	COUNCIL POSITION AS OF COREPER OF 24 OCTOBER	POSITION OF THE EP (after EP delegation on 05.11.08)
Amendment 9 Article 3 – point 2 a (new)			
	<i>2a) The terms "serious casualty" and "less serious casualty" shall be understood in accordance with the updated definitions contained in Circular 953 of the IMO Maritime Safety Committee.</i>	Maintain common position. (See also amendments 13, 14, 18 and 28).	2a) The term [...] "serious casualty" [...] shall be understood in accordance with the updated definitions contained in Circular 953 of the IMO Maritime Safety Committee.

The codecision procedure as well as the conciliation stage is not only an important step toward bicameral legislative making of the European Union, but it also brings elements of novelties in the relations between the institutions. Therefore, it has taken some years for the institutional actors to get more familiar with the new procedure, and the 1999 and 2006 formulations of revisited Joint Declaration have played useful role in facilitating the workings of the procedure.

Building on the description of how to get to conciliation in this Chapter, in the next one I discuss the theoretical accounts of the potential factors explaining bargaining success in the Conciliation Committee. From the theory I derive 14 hypotheses that will be tested in the empirical Chapters.

3. Theories of bicameral bargaining and the Conciliation Committee

The Conciliation Committee provides a means of reaching bicameral reconciliation, and while doing so it reflects aspects of the European decision-making. In this Chapter, I investigate several bargaining explanatory factors under which conditions I expect actors to be more or less accommodating when they sit at the negotiating table of the Conciliation Committee. The actors might tackle the distributive question: who gains what in the Conciliation Committee? And why? This Chapter reviews the literature on bicameral bargaining and the Conciliation Committee, illustrating the factors that may favour or hinder the successfulness of one chamber vis-à-vis the other.

I begin with a discussion on the disagreement value, exploring its driving mechanism in game theoretical analysis – both cooperative and non-cooperative settings – as well as spatial models, with special emphasis on European decision-making. Such analyses assume that EU bicameralism gives symmetric legislative power to the two legislative chambers. Recent researches on the Conciliation Committee, though, highlight the structural advantageous position of the Council vis-à-vis the Parliament, because of its composition rule, supermajority voting rule and open rule. Then, this discussion investigates two institutional factors that may increase the chance of parliamentary winning: the reforms to the codecision procedure enacted by the Treaty of Amsterdam and the qualified majority voting in the Council. The third section explores how deputies may rely on information asymmetry when bargaining with the Council. Parliament's key negotiators can issue veto threats and convey wrong signals about their reputation. Under time pressure representative relay actors (and their source of power) as well as cohesive chambers may influence the bargaining outcomes. Finally, the last section includes the role of the Commission. Based on literature on implementation, I consider how the Commission may shape the joint text and how

parliamentarians and national administrators are involved in policy execution across a variety of measures. The argumentation of each explanatory factor concludes with the derivation of a hypothesis and the discussion of the empirical evidence in the literature. I subject these hypotheses to empirical testing in Chapters 5, 6 and 7.

3.1. Disagreement value

Bargaining theory is based on the assumption that each player receives a default utility or disagreement value. As occurred in interstate bargaining (Moravcsik 1998), the location of the status quo is likely to affect the final outcome in negotiations. Understanding bargaining through disagreement value or the Best Alternative To a Negotiated Agreement – BATNA – is rooted in several models of the rational choice approach (McCarty and Meirowitz 2007, 275–286). This section deals with the disagreement value and how it affects solutions in cooperative, non-cooperative games and spatial models in legislative politics.

3.1.1. Cooperative and non-cooperative games

The disagreement value drives the Nash equilibrium bargaining solution in cooperative games⁶. The Nash bargaining solution requires axiomatic conditions negotiations have to meet. The bargainers maximize expected utility (*Invariance to Equivalent Utility Representation*); their allocation of the available resource is efficient so that no player does worse than her disagreement value (*Pareto Efficiency*); the allocation depends on the player's preferences and disagreement values (*Symmetry*); the bargaining solution should be unchanged, even if eliminating from consideration other possible bargains or

⁶ Bargaining cooperative games consider u_A and u_B as the utility of two players (A and B), who negotiate over the allocation of X units of some resource. The utility is based on the allocation, x_A and x_B . If no agreement is reached, player A and B receive a default utility or disagreement value, c_A and c_B respectively. The gains in utility from agreeing on x are $u_A(x_A) - u_A(c_A)$ for player A, and $u_B(x_B) - u_B(c_B)$ for player B. To ensure the bargaining problem is far from trivial, both players prefer at least one feasible allocation to the disagreement values.

allocation (*Independence of Irrelevant Alternatives*). The Nash equilibrium is the only possible solution whose utility allocation maximizes both u_A and u_B , that is to say:

$$[u_A(x_A) - u_A(c_A)][u_B(x_B) - u_B(c_B)]$$

Even in non-cooperative games, the Nash solution is driven by the BATNA (Dixit and Skeath 1999, 523–9), dealing explicitly with different bargaining structures. The non-cooperative approach allows exploring bargaining behaviour (why do the sides reach the bargain they do?) as well as the final bargain reached. One of the simplest non-cooperative models of bargaining, the Rubinstein model (1982), assumes two players offer proposal sequentially and one after the other. The value to carry on bargaining increases in one's disagreement value and decreases in the opponent's disagreement value (McCarty and Meirowitz 2007, 285–6). Roughly following Rubinstein's model, Napel and Widgrén (2006) set up a bargaining model of the Conciliation Committee with alternating offers, considered more realistic than an ultimatum game with a take-it-or-leave-it offer (as proposed by Steunenberg and Dimitrova 1999; and Crombez 2000). In order to identify the Conciliation agreement and the codecision outcome, the two scholars employ the symmetric Nash bargaining solutions, since they considers the European Parliament and the Council as equally impatient and skilled bargainers. More specifically, Napel and Widgrén (2006) model the negotiations within the Conciliation Committee and predict the Council to be significantly more influential than the Parliament. The source of this power resides on the fact that, under symmetric preference distributions, the Council pivotal member under qualified majority voting is likely to attach a higher value to the status quo (i.e. be more conservative) than the median voter in the Parliament.

But, significant for my purpose, the Nash bargaining solution has a number of important limitations. First, by treating negotiators equally, the Nash equilibrium ignores the structure of many bargaining environments, which are biased in favour of one side. Second, the *independence of irrelevant alternatives* condition is a strong requirement for collective rationality, as it excludes non-chosen alternatives, which may conversely affect the bargaining solutions. Third, the Nash bargaining solutions exclude bargaining disagreements. Often actual bargaining breaks down even when agreement is possible,

because one party decides that continuing negotiations is fruitless (Morrow 1994, 112–116). All these limits are taken into account in the following sections.

3.1.2. Spatial models of European legislative politics

The utility that actors attach to the status quo drives the solutions of spatial models of codecision bargaining as well. Legislative spatial models have been extensively used since the late 1970s to the study of US institutions and then introduced to the study of the European legislative process in the early 1990s. The models formulate conclusions and predictions on equilibrium European policies, depending on the preferences of the Commission, the Parliament and the Council, and obviously on the location of the status quo. The legislative power of the Parliament and the complex nature of a varieties of legislative procedures have been focused by several scholars (Crombez 1996, 1997, 2000, 2001; Garrett and Tsebelis 1996; Steunenberg 1994, 1997; Tsebelis and Garrett 1997, 2000; Tsebelis and Yatağan 2002; Tsebelis et al. 2001; Tsebelis 1994). By comparing different legislative procedures of the European Union (namely, consultation, cooperation and codecision), these analyses provide an insightful debate on the conditional agenda setting and veto power of the Parliament, and on the power balance between the member states and the Parliament. Theoretical models reduce these complex processes to simple propositions and assumptions. There is a single dimension of legislative bargaining (e.g. pro-anti EU integration). The actors are the Parliament, the Commission and seven members of the Council (the qualified majority establishes five out seven members). They have ideal policy preferences on this dimension (the Commission and the Parliament are more pro-integrationist than most member states) and they prefer to minimize the distance between their positions and the adopted legislation⁷. The location of the status quo under the different procedure drives the legislative bargaining outcomes, since actors compare the utility derived from the outcomes with the utility they attach to the status quo. Having these caveats in mind, I formulate the following hypothesis:

⁷ Actors' utility is decreasing in Euclidean distance from that ideal point. The closer the outcome is to the ideal policy, the better utility the actor receives.

Hypothesis 1: Conciliation outcomes are more likely to be biased against the Parliament when the Council is closer to the status quo than the Parliament.

Literature on disagreement value is vast and several studies focus on it, by interviewing experts and negotiating actors. Despite the plethora of empirically sophisticated models (Mesquita and Stokman 1994; Schneider, Finke, and Bailer 2010; Thomson 2011; Thomson et al. 2006), corroborating evidence from European studies is hard to come by. Extending and replicating the work of Thomson *et al.* (2006), Thomson (2011) finds that a model based on Nash bargaining solution, which assumes that the disagreement outcome is equally and highly undesirable for *all* bargaining actors, generates more accurate predictions than a similar model with a reference point (or status quo). In other words, including an estimate of the utility associated with failure *worsens* the predictive power of a model of EU decision-making.

Closer to my interest, empirical results appear contradictory. On the one hand, Costello and Thomson (2011) confirm that being closer to the status quo does not enhance the chances of success of the Parliament in codecision. On the other hand, König *et al.* (2007) find that proximity to the status quo allow a chamber to exert greater influence in conciliation negotiations. I have reasons to doubt this latter result though. According to the scholars, the variable on the location of the status quo may take three values,: the value of 1 if the Parliament is located closer to the status quo, -1 if the Council is closer to the status quo, and zero if no information was available. Missing data have therefore been treated as highly informative, since zero means also that the two institutions are symmetrically far away from the status quo. The impossibility to locate the status quo – almost 60 per cent of observations in this study – has been considered as univocally indicating that Council and Parliament attach the same value to the disagreement outcome. I am not sure whether this is the best method to treat missing information, especially given the availability of maximum likelihood or multiple imputation approaches (Allison 2001).

How can we explain these results? For Achen (2006, 102) the (negative) utility associated with the reference point is far more costly than just the disagreement costs. There are analytical and observational reasons as well. Since legislative bargaining has significant opportunity costs, a resource-constrained and risk-averse proposer, such as

the Commission, has an incentive to initiate only bills on which she is reasonably certain that the majority of legislators values more than the status quo. In an information rich environment, this estimation should not be too difficult. I, therefore, tend to observe mostly proposals where the cost of disagreement is high across the board and, therefore, it cannot explain outcomes.

In my study, Chapters 5, 6 and 7 focus on the impact of disagreement value on the final outcome, but distinctions are necessary. As far as Chapter 5 is regarded, I test the hypotheses through a proxy of disagreement value legislators have under certain dossiers. Withdrawals and rejections of dossiers indicate that misjudgement occurs, but failed proposals are excluded from this analysis, because there is no document to estimate. In Chapter 6, interviews allow me identifying the location of the status quo and the closest actor to it. Finally, in Chapter 7, I estimate the disagreement value from an extensive examination of official documents, newspaper articles, press reviews and vote declarations.

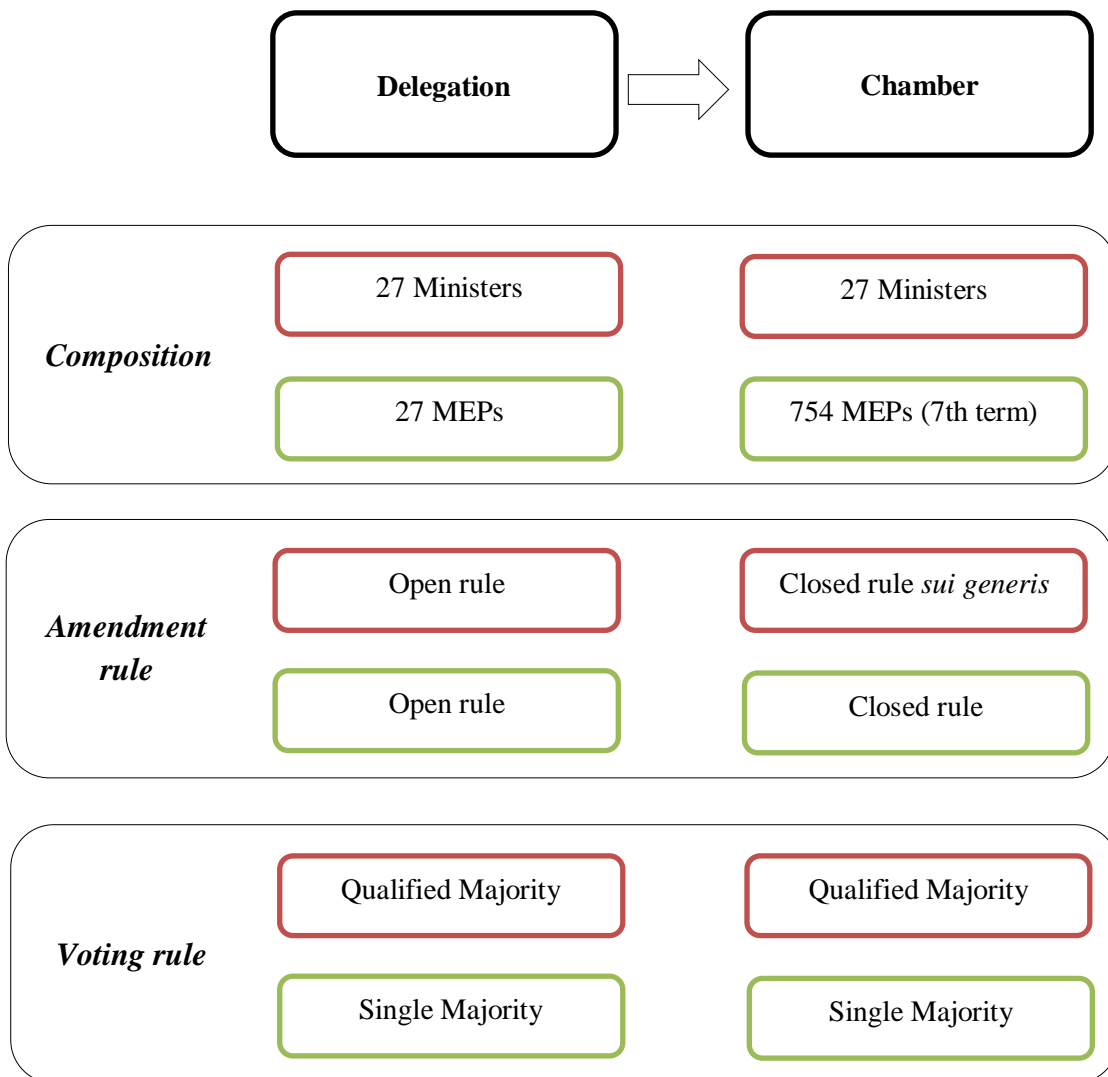
3.2. Institutions

3.2.1. Composition, amendment and voting rules

Solutions are driven by the disagreement value both in cooperative, non-cooperative games and even in spatial analysis. Spatial bargaining models describe the balance of power between the institutions – the Commission, the Parliament and the member states – and give extensive explanations of the evolution of the legislative policy in the European Union, under the consultation, the cooperation and the codecision procedures. Notwithstanding the plethora of spatial models on European legislative process, very few of them have focused on the agenda setting and veto powers shared by the Council and the Parliament within the Conciliation Committee. The success of a chamber, indeed, is determined by an arbitrary assumption about the first mover or a random recognition rule (Crombez 1997; 2001; Steunenberg 1994; 1997; Tsebelis and Garrett 2000). In addition, other scholars assume that the Council and the Parliament share symmetric power in a sequential bargaining game of Conciliation (Napel and Widgrén

2006). But how symmetric is the Conciliation Committee? As Chapter 2 illustrates, there is no symmetry within the Conciliation Committee. On the Council's side, the delegation fully represents every single member state, since each one has its own (deputy) representative and can submit amendments. The agreed text is then subject to a perfunctory confirmation vote by the same actors involved in the committee negotiation. As Rasmussen (2008, 88) reminds, the Council delegation is the Council. On the Parliament's side, there is a proper appointed subgroup of a collective actor, where delegates can propose, individually, amendments during the negotiation and, collectively, a joint text to their whole chamber. The assembly is then called to vote the text under closed rule. Figure 3.1 synthesizes the structural differences between the Council's and the Parliament's delegations and their relations with the parent chambers. First, the Parliament has as many delegates as the member states in the Council, but their composition is different. In the Council's delegation each member state has its representative, which tries to negotiate a joint text closest to its own ideal policy. The Parliament, on the other hand, appoints the delegated MEPs following its rules of procedure. Second, the different compositions influence the amendment rule of the delegations. Both delegations decide the compromise text under open rule and then under closed rule at third reading. However, given that the Council is fully represented, its final vote follows perfunctorily what has been decided in the Conciliation Committee. On the contrary, the parliamentary assembly cannot modify the joint text, but it can either accept or reject it. The third difference concerns the voting rule. The Council acts by qualified majority (or supermajority voting), while the Parliament acts by simple majority.

Figure 3.1: Structural differences in the Conciliation Committee



This set up makes the negotiations within each institution (the Council and the Parliament) asymmetric, because intracameral negotiations affect the intercameral negotiations. Negotiation inside the Parliament, that is, between the parliamentary delegation and the whole assembly, is a case of majority-rule bargaining under closed rule. Negotiation inside the Council is a case of (super)majority-rule bargaining under open rule. These differences are best analysed employing Baron and Ferejohn's (1989) extension of the Rubinstein model. This extended model indicates that members of the parliamentary delegation should enjoy significantly more proposal power vis-à-vis their colleagues in whole assembly than members of the Council delegation vis-à-vis their

own colleagues. Council delegates are hampered by both open rule and supermajority. Open rule permits the Council to pass amendments on the bill at conciliation, thus reducing the agenda setting power of the delegates. The parliamentary delegation is less constrained than the representatives of each member state, because they have lower majority threshold and closed rule.

This difference between the two delegations is common knowledge and structural; and its consequence can be interpreted through the counterintuitive lenses of the Schelling (1960) conjecture. In his seminal work, Schelling argues that constrained negotiators might try to exploit their constraint to bargain a more favourable compromise. This tactics, as Schelling called it, is an useful bargaining device, since “the power to constrain an adversary may depend on the power to bind oneself” (1960, 22). In other words, the constrained side results to be better off in bargaining since it can extract more concessions. Following the Schelling conjecture, I argue that, despite the Parliament enjoys more proposal power in intracameral negotiations (between the delegation and the plenary), it has less bargaining power while negotiating with the Council. Since members of the Council delegation are significantly more constrained, they are likely to demand a more accommodating stance from the more powerful parliamentary delegation. Counter intuitively, the power that these delegates enjoy in conciliation vis-à-vis their colleagues in the plenary is a source of structural weakness in the conciliation negotiations.

3.2.2. Constitutional reforms

Voting rule in the Council

Beside the constitutional rules specified by the legislative procedure, two reforms affect the legislative outcome: the voting rule of the Council and the second version of codecision.

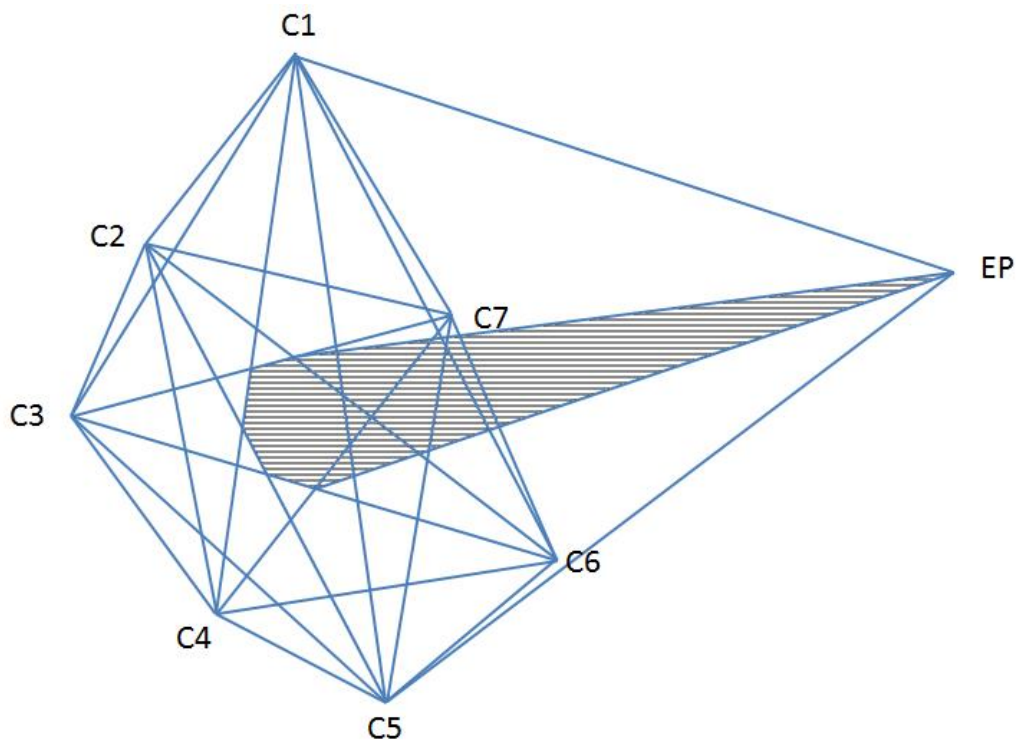
The existing literature on the EU bicameralism and the Conciliation Committee agree on the fact that the voting rule inside the Council may affect the final legislative outcome (Napel and Widgrén 2003; Tsebelis 2002). The Council, indeed, decides either by qualified majority or unanimity voting, depending on the legal basis of the

Commission's proposal. Over the twenty years of codecision, the number of issues subject to unanimity in the Council has markedly decreased in favour of qualified majority voting. As Tsebelis shows, in the bicameral setting of the codecision procedure, the size of the core⁸ depends on the voting rules each chamber applies, all else being equal. The core will increase if the Council votes under unanimity rather than under qualified majority voting. This has a major consequence. The final legislative "outcome shifts in favour of the less flexible chamber" (2002, 247), that is the Council. Graphical representation is useful for understanding the dynamics under different voting rules. In Figure 3.2 I illustrate the size of the core in the Conciliation Committee, following the spatial models discussed above⁹. I assume that the Parliament is unitary actor, while the Council is composed by seven members. They are located on a bidimensional space and have Euclidean preferences. In addition, they have single-peaked utility functions. The cross-hatched area includes the Conciliation Committee core when the Council decides by qualified majority voting, whereas the hexagon C1-C2-C3-C4-C5-EP is the core when the Council decides by unanimity. The figure, thus, spatially shows the larger core under unanimity than under qualified majority voting. The same hypothesis can also be derived from a model in which the Parliament is treated as collective actor, as Tsebelis and Yatağanas (2002) do, but the illustration is much clearer with this assumption.

⁸ The core is the set of points that cannot be defeated through the application of a decision-making rule. Therefore, there can be the unanimity core or the qualified majority core, according to the voting rule used.

⁹ No model has so far investigated the core of bicameral legislature with different majority threshold.

Figure 3.2: Core of the Conciliation Committee



Note: I assume the Council consists of seven members: C1, C2, C3, C4, C5, C6 and C7. Each member has an ideal policy and, in order to reach the qualified majority threshold, 5 out of seven members need to agree. The Parliament, EP, is a unitary actor.

For instance, provisions concerning the mutual recognition of qualifications were subject to article 47 of the Treaty of the European Communities, which required unanimity in the Council (as in the case of the directive for the professional recognition – COD/1997/0345). Such legal basis has been changed by the Treaty of Lisbon and the newly inserted article 53 applies qualified majority voting. This change in the legal basis reduces the core of the Conciliation Committee in case of future legislation on the issue.

Also Napel and Widgrén (2003) note that the distinct internal decision mechanisms provide an indirect procedural advantage to the Council, despite the apparent symmetry between the two co-legislators. Where the Treaty prescribes unanimity in the Council, each member's proposal power *within* this institution is even more inhibited, further strengthening the Council vis-à-vis the parliamentary delegation (N. McCarty and

Meirowitz 2007: 294; Tsebelis 2002). Now it is the least accommodating Council member that will make demands on the parliamentary delegation. I can therefore derive the following hypothesis.

Hypothesis 2: Conciliation outcomes are more likely to be biased in favour of the Parliament under qualified majority than unanimity voting in the Council.

The impact of the voting rule on bargaining success has not been empirically investigated yet, in the literature on codecision. This hypothesis will be tested empirically in Chapter 5.

Codecision I and II

Lastly, the bargaining power enjoyed by the Parliament has changed over the decades and across the versions of legislative procedures. Scholars on spatial analysis of European legislative politics have variously interpreted the institutional revisions introduced by the Single European Act (1986), the Treaty of Maastricht (1992) and the Treaty of Amsterdam (1997)¹⁰. For my purpose, the main constitutional change in codecision was introduced by the Treaty of Amsterdam with the second version (codecision II). The Treaty provides that, in case of negotiation failure in the Conciliation, the Council cannot reconfirm its position, as it was under the first version of codecision (codecision I). The reforms introduced in 1997 with the Amsterdam Treaty, indeed, changed the balance of power between the Council and the Parliament, by giving both chambers veto and agenda setting power in the last round of codecision. There is large consensus among scholars that, by changing the last round of the codecision, the Amsterdam Treaty provides the Council and the Parliament as equal co-legislators (Crombez 2000; Crombez 2001; Steunenberg and Dimitrova 1999; Tsebelis

¹⁰ Crombez (1997), Moser (1996) and Scully (1997a; 1997b) argue that the Parliament has more power under the first version of the codecision than what the Tsebelis and Garrett (1996; 2000) model would predict. Garrett and Tsebelis (1996), indeed, point out that the Maastricht Treaty entrusted more veto power to the Parliament under codecision than under cooperation. The Parliament's veto power, however, was gained at the expense of its ability to influence the Council's agenda, when conciliation fails to reach an agreement. Consequently, the codecision procedure, as introduced by the Treaty of Maastricht, establishes the Council is the only agenda setter.

and Garrett 2000). Given the fact that the Council could reintroduce its position, without taking into consideration the Parliament's position, codecision I is considered to have weakened the bargaining power of the Parliament vis-à-vis the Council in conciliation. On the contrary, under codecision II if either the parliamentary delegation fails to reach an agreement with the Council or the assembly rejects such agreement, the act shall be deemed not to have been adopted. From this consideration I introduce the following hypothesis.

Hypothesis 3: Conciliation outcomes are more likely to be biased in favour of the Parliament under the codecision version of the Amsterdam Treaty, rather than the early version of the Maastricht Treaty.

Although the Amsterdam Treaty substantially increased the Parliament's power, empirical evidence does not confirm fully the difference between the first and the second version of the codecision procedure for the Parliament. The study of Kasack (2004) shows only a slight increase in total amendment adoption since the entry into force of the Treaty of Amsterdam to early 2002, while Hix (2002) demonstrates that codecision two is the result of institutionalization of old rule having worked into practice, rather than fully empowerment of the Parliament at the expense of the Council. In this research I will investigate whether constitutional reforms influenced the intercameral negotiations in Chapter 5.

3.2.3. The size of the Parliament's assembly

An additional factor affecting the legislative outcome is represented by the size of the parliamentary assembly. Baron and Ferejohn's (1989) model indicates that, in majority bargaining under closed rule, the size of the assembly matters. The proposer receives, indeed, a larger share of resources if the legislature is smaller. In other words, proposal power should increase in the size of the assembly because more legislators can be played off one another. The Parliament has undergone several enlargements and increased in size since codecision has been established. For instance, while the European Parliament was composed of 518 deputies from twelve countries in the third legislature, in the seventh legislature it comprised 754 deputies from twenty-seven

countries. However, the Schelling conjecture should work also here. The larger the size of the assembly is and the more proposal power the Parliament has. This increasing proposal power of the assembly reflects on the fewer constraints the delegation has. Rephrasing Schelling's (1960) paradox of weakness argument, the delegation has less power to constrain the Council since it has less power to constrain itself and the assembly during negotiation in the Conciliation Committee. This increased proposal power should further weaken the parliamentary delegation in the conciliation negotiations with the Council. Consequently, I formulate the following hypothesis.

Hypothesis 4: Conciliation outcomes are more likely to be biased in favour of the Parliament when the size of the assembly is smaller.

No empirical evidence on the increase in size of the assembly is on offer. The long time span under examination allows testing me whether subsequent enlargements have decreased the bargaining power of the Parliament. I offer empirical analysis both in Chapter 5 and 6.

3.3. Uncertainty, veto threats and reputation

Disagreement values and institutions draw attention on the several structural features that could work against the Parliament. In this section I examine the instruments at its disposal to redress this structural weakness. What can the Parliament do to strengthen its position in the conciliation negotiations?

Given its structural disadvantage, we may wonder what motivates the Parliament to move to conciliation. One factor could work in its favour: incomplete information. The models discussed previously consider bargaining of completely informed actors. But, bargaining in conciliation is uncertain. During negotiations, reciprocal knowledge of the counterparts is extremely relevant, especially in the Conciliation Committee where the two delegations face each other and have the last chance to produce legislation.

Uncertainty over the real intentions and positions of the other negotiator may lead to a wide array of possible outcomes. In such a situation, uncertainty of one delegation over the other's position may also reduce the possibility of a compromise text. In addition, when negotiators operate under uncertainty in dynamic bargaining settings, they learn

about each other over the course of negotiations, and change their actions as learning occurs. In other words, in the circumstances of incomplete information, an actor has *only* the belief about what the other will accept. This leads to an important concept: reputation. As Cameron points out (2000, 106–110) reputation and incomplete information are intertwined: player's reputation is the beliefs that other players have about his or her incompletely known characteristics. Those beliefs – the reputation – affect the other delegation's actions and legislative proposals. During negotiations in conciliation¹¹, beliefs evolve in response to the other delegation's observed actions. Consequently, by choosing one action instead of another, a player may manipulate her reputation at her advantage.

There are several implications about belief manipulation and reputation in the present study. Assume a proposer facing, with a given probability, two types of receivers – moderate and extremist – with low and high disagreement values respectively. As McCarty and Meirowitz (2007: 295) show, the proposer's take-it-or-leave-it offer is more accommodating if the probability of dealing with an extreme receiver is high and her utility difference between an aggressive and an accommodating offer is small. A moderate receiver is better off if the proposer believes that she is an extreme type.

The literature on belief manipulation refers mainly on the role of the US President as veto player towards Congress' proposals (Cameron 2000; Cameron and McCarty 2004; Matthews 1989; McCarty 1997) and, unfortunately, no theoretical models has been developed with the Conciliation Committee in mind. However, these incentives are best analysed through signalling models. The important contribution of Matthews (1989) emphasizes how veto and veto threats occur regularly during legislative bargaining. The model shows that the most informative equilibrium consists of an accommodating receiver signalling his true type and other recalcitrant receivers extracting concession after they have issued veto threats.

Importantly, there is no guarantee for this equilibrium to exist. In a dynamic model of reputation building and bargaining over multiple bills, McCarty (1997) shows how a receiver has an incentive to reject a first-period proposal to build a reputation as an

¹¹ Bargaining within the Conciliation Committee may be considered as a dynamic strategic setting, as the legislative outcome is the result of alternating offers and counteroffers occurring in a set period of time.

extreme type in order to obtain a better outcome from a second-period proposal. Given these incentives, the proposer may be more accommodating in the first period to avoid rejection on reputational grounds. This dynamics holds if receiver and proposer are sufficiently divergent.

On this vein, the sequential veto bargaining model of Cameron (2000, 110–122) fixes the President's true type, which varies from round to round. Congress does not know the opponent's policy preferences. This condition is sufficient to transform the strategic situation. The Congress learns about the President's type at the first round and it will use the information in the second round. The President has an incentive to build a policy reputation in the first round in order to extract a better bill in the following round. Moreover, the President would engage in a strategic veto in the first round, so he can anticipate what Congress will offer in the second round because he might find the second bill more attractive than the first one. The attractiveness of the second bill makes the President being willing to risk a breakdown in order to extract the better bill from Congress.

When the legislature faces uncertainty, vetoes and extraction of concession can be incorrectly estimated. Relaxing the assumptions of complete information, indeed, Cameron and McCarty (2004) reach important conclusion. A moderate President is better off if the proposing Congress believes that the President is the extreme type.

So, roughly following influential models of veto bargaining and veto threats, I apply the concept of belief manipulation and reputation to conciliation negotiation. Considering that in conciliation there is no predetermined receiver or proposer and uncertainty may work either way, some speculations may flourish. Since the Council is fully represented, uncertainty about the type of Council the parliamentary delegation is dealing with is plausibly lower than the uncertainty about the type of full assembly the Council delegation is facing.¹² Potential benefits for the Parliament may lie here. The

¹² The speculation does not refer to the transparency the chambers allow when providing information on their decision-making. Benedetto (2005) argues that bargaining inside the Parliament is more transparent than bargaining inside the Council and this should work in favour of the latter institution, but this is the case *prior* to getting to conciliation. During these negotiations, both sides are involved in informal meetings, whose bargaining is, most of the time, kept secret to the public. There, the whole Council is in

conciliation process can be plausibly described as a situation whereby the Council (proposer) makes a take-it-or-leave-it offer to the full Parliament (receiver), conditional to the support from a parliamentary delegation under open rule.

Since dossiers get to the conciliation stage because the positions of the Council and the Parliament differ significantly, even the most accommodating parliamentary delegation would have the incentive to issue a veto threat, even at the risk of producing an uninformative babbling equilibrium (Matthews 1989). Nevertheless, the following sections extensively investigate under which conditions a veto threat issued by the Parliament is likely to extract concessions from the Council¹³. I draw attention to the leading players involved in the conciliation negotiations – the President of the Council and the rapporteur of the Parliament – because they are widely recognized as being influential relay actors (Farrell and Héritier 2004; Rasmussen 2005), even in the informal meetings occurring before and at conciliation. Some rapporteurs may have bargaining weapons at their disposal, by manipulating the other institutions' beliefs. Member states holding the Presidency, on the other hand, may strengthen their reputation at the negotiating table, depending on their skills and know-how on the conciliation process.

3.3.1. The rapporteur

The rapporteur plays a significant leadership role in European decision-making (Benedetto 2005; Farrell and Héritier 2004; Mamadouh and Raunio 2003; Rasmussen 2005). She is in charge of preparing the discussion on the subject within the responsible parliamentary committee, presenting a draft text, amending the Commission's proposal and the common position and taking into account comments raised both in the committee and in the plenary. Rapporteurs have information advantage within the

full view to the parliamentary delegation, which can better recognize the opponent chamber's policy preferences and actions, whereas the whole assembly is not in full view to the Council.

¹³ Ingberman and Yao (1991) analyse the consequences of a receiver successfully issuing a commitment threat of the sort: "I'll veto any bill that is not in the set C" (362), but this model is silent on the circumstances under which the receiver has the incentive and ability to make such a threat (C. M. Cameron 2000: 197).

committee. They know better than other deputies the report and, consequently, perform a leadership role. According to Costello and Thomson (2010), the information imbalance in favour of the rapporteur may bias the legislative decision-making toward individual committee members' interests. Once appointed, the rapporteur plays an important part in the plenary debates, and her report may be subject of the committee's and the assembly's amendments.

More important for my purpose, the rapporteur is involved in conciliation negotiations by shaping and affecting the final outcomes. In the final stage of the codecision procedure the rapporteur is in the parliamentary delegation as *ex officio* member and, in the restricted informal meetings, she represents the Parliament along with the chairman of the responsible committee and one of the three vice-President, appointed to lead conciliation bargaining. Because of her crucial role in the formulation of the parliamentary position within the Conciliation Committee, the rapporteur is constantly connected with the delegation and the plenary. The generally acknowledge importance of the rapporteur raises the question whether there are some characteristics of the rapporteur that may improve the parliamentary successful chance in conciliation vis-à-vis the Council. Linked to the literature on veto bargaining and information asymmetry discussed before, negotiators may exploit their own characteristics in order to gain more concessions from the Council. Given the centrality of these relay actors, scholars envisage that certain kinds of rapporteur may reinforce or weaken the Parliament's potential gains, for instance, rapporteurs coming from large parties or being in a position of leadership (Costello and Thomson 2011; Farrell and Héritier 2004; König et al. 2007; Rasmussen 2005, 2008), or rapporteurs coming from party represented in the Council (Rasmussen 2011).

Starting from the first characteristics, rapporteurs coming from large parties, such as the European People's Party and the Party of European Socialists, are deemed to be more easily in touch with the majority of deputies in the plenary. Formal models on veto threat and reputation, on one side, and the literature on European bicameral bargaining, on the other side, help us explaining the reasons why large party rapporteurs affect inter-institutional negotiations in codecision. According to veto-threat argument,

rapporteurs from large parties may have an incentive to develop a reputation as a tough negotiator in order to extract concessions during conciliation. They are more likely and more capable to make good on veto threats because they have more resources to sanction defection in the assembly. Credibility goes hand in hand with the capability to muster a cohesive veto and, conversely, to sanction defecting parliamentarians.

According to preference-based explanation, rapporteurs coming from large parties better represent the views of the majority in the Parliament, so they are reasonably more credible when claiming what will then be accepted by the plenary at third reading. The rapporteur would block any further concessions to the Council because she is credibly constrained by the assembly (Costello and Thomson 2011). In addition, the Council tries to be in contact especially with rapporteurs coming from large groups and exclude smaller group from decision-making. (Farrell and Héritier 2004).

On the other hand, König and his colleagues (2007) argue for the opposite. They reverse the causal relationship. Considering the Schelling conjecture, these scholars suppose that a smaller party rapporteur would extract more concessions as she would hold more extreme views, and this would be advantageous for the median institutional actor.¹⁴

To sum up, two causal mechanisms explain the influence of the rapporteur's party membership on the final outcome: the veto-threat and the preference-based arguments. From either explanation I derive the following testable hypotheses, considering also the alternative König *et al.*'s expectation.

Hypothesis 5a: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur comes from larger parties.

Hypothesis 5b: Conciliation outcomes are more likely to be biased in favour of the Council when rapporteur comes from smaller parties.

Looking at the constitutional setting of the Parliament, it seems reasonable to consider the Socialists and the People's Party, the main party groups, to have the last say in the legislative process. Rapporteurs from these two parties may have additional bargaining

¹⁴ Note that they consider rapporteurs from the liberal party as extremists. The preference-based interpretation of König *et al.* (2007) introduces one implication of Schelling's 'paradox of weakness' (Schelling 1960). Since smaller parties have more stringent constraints than larger parties, they may be in a most favourable bargaining position, once they negotiate with the Council representatives.

power in comparison to small party representatives. Unfortunately, no evidence corroborates this relationship. Both König *et al.* (2007) and Costello and Thomson (2011) fail to find empirical evidence on the influence a rapporteur choice has on the bargaining success of the Parliament. Only Rasmussen (2011) obtains empirical support, even though she investigates on the likelihood dossier to be concluded as early agreement. The empirical analysis of the two alternative hypotheses will be developed in Chapter 5 and 6.

Second, rapporteurs may occupy leadership position in the party or in the Parliament. Two alternative causal mechanisms may operate. Costello and Thomson (2011) extend the Schelling conjecture to the leadership role of the rapporteur. Since they may be subject of fewer constraints than other negotiators, political leaders “will find it difficult to convince their counterparts [i.e. the Council] that they are unable to compromise” (Costello and Thomson 2011, 342). The two scholars argue that the Parliament achieves less bargaining success when the rapporteur is in a leadership position. On the contrary, I apply again the veto threat explanation. The Parliament may be better off vis-à-vis the Council, when leader rapporteur drives negotiations, since the personal authority attached to leadership figures allows issuing credible threats of veto and sanctioning parliamentarians who do not follow the indication of their political group at third reading. Leaders, indeed, may be more involved in the bargaining process rather than rank-and-file rapporteurs; because they are better informed about the Council’s preferences, have more reliable inter-institutional relations and are better in touch with the delegates and members of the responsible committee. In conclusion, two argumentations refer to the influence of rapporteurs occupying position of leadership. Costello and Thomson consider that the few constraints these rapporteurs have reduce their bargaining power vis-à-vis the Council. However, these rapporteurs are more credible when issuing signals of veto threats. These alternative explanations suggest two hypotheses.

Hypothesis 6a: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur is in a leadership position.

Hypothesis 6b: Conciliation outcomes are more likely to be biased in favour of the Council when rapporteur is not in a leadership position.

Although limited to dossiers under codecision II, Costello and Thomson (2011) find corroborating evidence that rapporteurs in leadership position in the Parliament decrease the chance of winning of the Parliament during negotiations. Chapter 5 and 6 will test both hypotheses.

Third, bargaining uncertainty may be affected when the rapporteur comes from a party represented in the Council. According to Rasmussen (2011), party congruence between the rapporteur and the national representative in the Council (the minister or the permanent representatives) may lead to a better understanding of the negotiators, because of common cultural and linguistic background. Uncertainty may be reduced when the rapporteur and the Presidency share the same ideological background, that is, they belong to the same national party group. For instance, in 1994 Germany was led by a coalition government formed by the Christian Democratic Union, the Christian Social Union and the Free Democratic Party. A German rapporteur of the Christian Democratic Union (which is member of the European People's Party) may share the same priorities and policy preferences of her country's representatives sitting at the negotiating table. Reduced uncertainty, though, weakens the Parliament's bargaining position and the rapporteur's ability to issue credible threats. Rapporteur from parties represented in the Council, indeed, are less credible, because their allegiance is also with the national parties in government. Given that the member states are better informed about the Parliament's preferences, when rapporteurs comes from a party represented in the Council, the Parliament has less room to manipulate the beliefs about its position and, thus, has less bargaining power in conciliation. I consider the following hypothesis.

Hypothesis 7: Conciliation outcomes are less likely to be biased in favour of the Parliament when rapporteur is from a party represented in the Council.

In her study on early agreement, Rasmussen (2011) empirically confirms that sharing ideological background decreases bargaining uncertainty between the rapporteur and the

Council, at the expense of the Parliament. Even this last characteristic of the rapporteur will be subject to systematic tests in Chapter 5 and 6.

3.3.2. The President of the Council

On the Council's side, the relay actor is the minister (or her permanent representative) of the member state holding the Presidency. The Presidency provides the member state that is chairing the office a great opportunity to influence legislative decision-making, because it gives informational and procedural advantages in comparison to other countries and facilitates contacts with the European Parliament.¹⁵ There is scholarly consensus that member states holding the chair during the final stage of legislative proceedings increases the Council's bargaining success (Warntjen 2008).

In the Conciliation Committee, negotiations take place among key negotiators of the three institutions involved in the legislative process: the Council, the European Parliament and the Commission. Trialogues have become the *modus operandi* since half of 1995, though. According to several scholars, the codecision procedure and the institutionalization of these informal meetings have further empowered the Presidency, that acts on behalf of the Council vis-à-vis the Parliament and the Commission (Farrell and Héritier 2004; Tallberg 2006; Warntjen 2008). Even the guide for codecision published by the Council asserts that "during trialogues, the Presidency is the single voice of the Council and during plenary meetings of the Conciliation Committee the Presidency minister is the spokesman of the Council" (European Council 2000, 8). Since the Presidency is an active player in the Conciliation Committee, not all member states have the same power of initiative in shaping the Council's agenda and pushing forward their claims. In informal settings, having longer experience on how the process develops and how to use influence is crucial. If the President of the Council comes from new member states, it is plausible to suggest that she would be more easily subject to belief manipulation as she is still learning the ropes of negotiation. Newer member states should take longer adapt to the informal negotiating environment of the

¹⁵ The Presidency can assist to the plenary and parliamentary committee sessions and can give opinions on some relevant issues that are under debate in the plenary.

Conciliation Committee. They are involved in institutional learning and in mechanisms of *actor socialization* into processes of European integration and decision-making (Hosli, Mattila, and Uriot 2011). Moreover, the newer member state holding the Presidency may also be facing higher reputational costs of a failed negotiation. The outgoing office-holder obtains point of pride whether she is viewed by her colleagues as having conducted a “good Presidency”, that is to say it is positively valued to get an agreement (Majone 2005, 175).

As newer member states may be subject of belief manipulation and may face reputation-building process, I expect that the Council has less bargaining power when such members hold the Presidency. I formulate the following hypothesis:

Hypothesis 8: Conciliation outcomes are more likely to be biased in favour of the Parliament when the Presidency of the Council is from a new member state.

None of the empirical analyses tests the impact of President state seniority on the legislative bargaining success of the Council or the Parliament. Therefore, the hypothesis is subject to testing in Chapter 5 and 6.

3.3.3. Electoral cycles, reputation and audience costs

Electoral cycle in the Parliament may drive the bargaining outcome at the expense of the Council. Reputational incentives may operate within the assembly at large. As McCarty (1997) suggests reputation building rests on term dynamics. At the beginning of the mandate the value of reputation is higher than at the end of a term. At the same time, the Council may be more accommodating at the beginning of the parliamentary term, when it is likely to be more subject to belief manipulation by the Parliament.

This explanation overturns the role the electorate has in influencing the legislative chambers, though. Few signalling models formalize two negotiators which send signals to a third outside party (Fearon 1994, 1997). In day-to-day decision-making, Groseclose and Mcarty (2001) highlight that an important part of the activity of political actors is to send signals on their preferences to the voters. This happens more frequently in election years and during divided government. They show that gridlock and vetoes occur even when there are policy alternatives preferred to the status quo. The signalling incentives

negotiators have towards the electorate (or the audience) discourage them to reach such alternatives. In election years the members of the European Parliament are more likely to face “audience costs”, which are intended to capture the role that voters play in holding their deputies accountable for the compromise they agree on in conciliation. In addition, I need to consider that politicians are even more concerned about re-election as the legislative mandate is ending, consequently they cannot ignore audience costs. However, the Parliament and the Council differs also in the mandate. The Parliament is collectively renewed once every five years, while the Council may change its composition whenever a member state holds a national election. Since European elections are more likely to change the Parliament’s composition, the Parliament is more influential in the conciliation outcomes than a new government, when the mandate is ending.

In this section I have discussed how electoral cycle of the Parliament may influence on the conciliation bargaining. I focus on the audience costs and reputational incentives faced by parliamentarians and I propose two opposite hypotheses follow from these explanations.

Hypothesis 9a: Conciliation outcomes are more likely to be biased in favour of the Parliament when audience costs are higher.

Hypothesis 9b: Conciliation outcomes are more likely to be biased in favour of the Parliament at the beginning, rather than at the end of the legislative term.

No empirical analysis has tested how these temporal dynamics may affect the bargaining success of one chamber over the other, because of either audience costs or reputation building. I test the two opposite hypotheses in Chapters 5 and 6.

3.3.4. Personality

This section takes into consideration other factors having an impact during negotiations. Until now, the characteristics of the relay actors refer to tangible resource of power: party membership, leadership position, membership seniority as well as the size of the assembly. However, at actor-level resources such as bargaining skills and previous expertise could be of relevance (Bailer 2004). Beside the personal authority, that might

explain the ability in issuing threats by rapporteur coming from large parties or in a leadership position, negotiators can rely on their own individual attributes, such as technical knowledge of the specific issue under negotiation (Tallberg 2008), perseverance and motivation to reach an agreement. Constructivist scholars emphasize persuasion and communicative attitudes in various setting of EU politics, but systematic and quantitative studies on bargaining skills are quite contradictory and limited to the Council of Minister or the European Council (Bailer 2004, 2006, 2010; Moravcsik 1998; Tallberg 2008). In addition, as Achen (2006, 101–103) argues, the ability of negotiators in establishing stable and efficient relations with the other actors seems to be crucial in order to succeed. Having all these caveats in mind, I derive the following hypothesis.

Hypothesis 10: Conciliation outcomes are more likely to be biased in favour of the Parliament when parliamentary actors have more experience on the dossier and on how to conduct the negotiations

Unfortunately, investigations on individual source of power are hard to come by. Although restricted on committee appointment, two recent studies of McElroy (2006) and Yordanova (2009), show that committee seniority of the deputies has strong impact on the distribution of committee seats. In turn it seems to suggest that professionalization may strengthen the Parliament's position in EU politics. On the other hand, Bailer (2004, 2006) does not find significant support of the country's bargaining skills in bargaining success. However, these studies focus on the intracameral bargaining process, without considering how these skills affect intercameral negotiations. My study aims at filling this gap in the literature and investigating their role in the Conciliation Committee. The analysis is not easy. Operationalization of this variable is fraught of difficulties, since it suffers from the problem of measuring skills and idiosyncratic features negotiators have. As a result, I test the impact on conciliation bargaining only in Chapter 6.

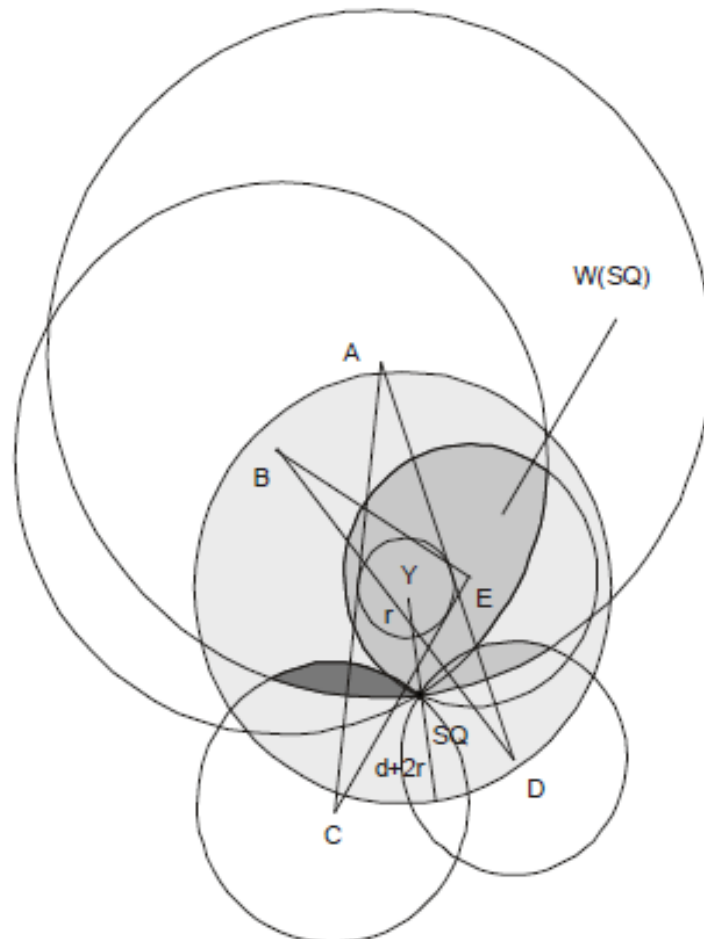
3.4. Representativeness and cohesiveness

This section explores the implications that intracameral organizations have on intercameral interactions. Two related factors need to be considered as explanatory variables of the Conciliation Committee's outcomes: representativeness of the parliamentary delegation and cohesiveness of the chambers.

3.4.1. Cohesiveness

Tsebelis's model illustrates how the cohesion of a collective player is extremely important for the size of the winset of the status quo (2002). Figure 3.3 is helpful in understanding how cohesion is determined. Let us find the winset of the status quo (SQ) for collective players. After having sketched the median between the collective actors (A, B, C, D), the smallest circle inscribed by the medians with centre Y and radius r is called *yolk*. Take the distance between Y and the status quo, the winset of the status quo is within the wincircle. The Y-centred wincircle, with radius $d + 2r$ (where d is the distance between Y and the status quo), defines an upper bound – there are no points of the winset of the status quo located outside it. Cohesion is, thus, conceived as the inverse of the radius r of a Y-centred yolk of a majority-voting collective player. Therefore, as the radius of the yolk decreases, cohesion of a collective veto player increases. By definition a decrease in cohesiveness increases the wincircle. Nevertheless, Tsebelis states that, even though the winset of the status quo is within the wincircle, “it is not always the case that an increased wincircle will entail an increase in the size of the winset of the status quo” (Tsebelis 2002, 48). Since these propositions are highly conjectural, there are possible configurations disconfirming the speculation that “policy stability increases as the m-cohesion of a collective veto player increases (as the radius of the yolk decreases)” (Tsebelis 2002, 48). Tsebelis provides a counterexample of an *increase* in winset as the wincircle shrinks (i.e. as cohesiveness increases). For collective actors deciding by qualified majority, the so-called *q-circle* determines the radius and centre of the wincircle. Lower cohesion (i.e. larger yolk) is actually more likely to *reduce* the size of the wincircle and winset, although one can find counterexamples (Tsebelis 2002, 53).

Figure 3.3: The winset of the status quo in a collective player



Source: Tsebelis, George. 2002. *Veto Players: How Political Institutions Work*. Princeton University Press.

Hypothesis 12: Conciliation outcomes are more likely to be biased in favour of the Parliament when the assembly voted cohesively.

The Tsebelis analysis has been subject to contradictory empirical evidence in European bargaining process. In their work on conciliation, König *et al.* (2007) find that higher parliamentary cohesiveness diminishes Council's and increases Parliament's success rates, and that lower Council cohesiveness increases parliamentary success. König *et al.* argue that "the winset of less cohesive non-unitary institutional actors is larger. Because more cohesive non-unitary institutional actors accept fewer alternatives that beat the status quo, the bargaining outcome is expected to shift towards them" (2007, 289–90).

Albeit anecdotal, the rejection by the Parliament of the joint text on biotechnological inventions seems to originate from a diminished cohesiveness (and smaller winset) after the European elections. Intra-parliamentary division made impossible for the delegation to propose legislation being agreed by the assembly (Bethold Rittberger 2000: 563). To some extent, achieving successful intercameral negotiations depends also on the ability to ensure intracameral cohesion by representatives both in the trialogues and in the Conciliation Committee. Kardasheva (forthcoming) confirms that divisions among deputies weaken the bargaining position of the Parliament vis-à-vis the Council and the Commission under the ordinary legislative procedure. I will test the above mentioned hypothesis only in Chapter 6 for two reasons. First, it is very hard to determine the location of the wincircle and m-cohesion, since it ultimately depends on (a speculation on) the location of the status quo. Second, due to the lack of transparency within the Conciliation Committee, there is limited information to speculate the cohesiveness of the Parliament, its delegation and even of the Council.

3.4.2. Representativeness

Related to intra-chamber cohesiveness is representativeness. Representativeness matters, as Tsebelis and Money (1997, 110–8) remind us. In their seminal work on bicameralism, Tsebelis and Money demonstrate how the selection of delegates is “a political decision that ultimately affects the conference committee compromise” (1997, 112) and depends on two factors: the bicameral restriction imposed on the conference committee by the parent chamber (i.e. by imposing the inclusion of certain members who will skew the majority one way or another), and the committee yolk. The two scholars identify that the committee yolk is a function of the composition of the conference committee: “whether the delegation of each chamber is a faithful agent of the parent chamber or whether the set of conference committee members is a faithful representative of the bicameral legislature”. Nevertheless, Tsebelis and Money do not investigate misrepresentation of each delegation, but on the whole conference committee vis-à-vis the upper and lower chambers.

The two delegations in the Conciliation Committee differ though. The Council is fully represented and each member state has its own delegate, with ministers or permanent representatives. The Parliament, on the other hand, has restricted rules of procedure to appoint the members. Let us focus on the Parliament. The delegation could be more accommodating towards the Council than the whole assembly; or, it could be more recalcitrant. However, while an accommodating delegation may be detrimental to the assembly by agreeing on a joint document that is farther from the assembly position; it is unclear why a recalcitrant delegation should produce the same outcome. Actually, a chamber is facing a trade-off in staffing committees, since they play a dual role in bargaining: both as proposer and as receiver. The parent chamber may want the committee to be a tough veto constraint for the other chamber, but this produces a strategic rationale to create unrepresentative committee. The incentive to create a recalcitrant committee induces the other chamber to moderate its proposal and to make them more favourable to the committee, than to the parent chamber. (Gailmard and Hammond 2011). As a result, the assembly has the incentive to create a tough delegation to the extent that such delegation may extract more concession and negotiate a better legislative outcome.

A concluding remark on how conciliation operates is crucial. While procedural rule on conciliation ensures parliamentary delegation to be representative of the assembly, informal meetings in conciliation disregard such prescriptions. On the parliamentary side, representatives in the trialogues, indeed, come from the highest offices during the dossiers, namely the rapporteur, the chairperson of the responsible committee and the vice-President, and there is no prescriptive rule of representativeness in such appointment. The three delegates are previously appointed according to parliamentary internal rule¹⁶, and they frequently come from large party groups. Trialogues, indeed,

¹⁶ Rapporteur as well as chairman of the committee responsible is appointed at the beginning of the legislative procedure and at the committee's constituent meeting, respectively. Rapporteur's appointment is the result of a point-based auction among party groups, while chairperson are elected on the basis of allocation determined by the D'Hondt system (for details see Corbett, Jacobs, and Shackleton 2007, 140) The three vice-Presidents delegated for the conciliation have a midterm appointment, following the unwritten rule: two vice-Presidents from the largest party group and one vice-President from the second

allows majority party representatives negotiating more frequently with the Council (Kardasheva forthcoming).

In conclusion, the assembly faces a tension between a representative and a tough (although unrepresentative) delegation. Certainly, a tough delegation would be able to extract more concessions from the Council than an accommodating delegation, and this may be of benefit of the Parliament. Therefore, I suggest the following hypothesis on the representativeness of the delegation.

Hypothesis 11: Conciliation outcomes are more likely to be biased in favour of the Parliament when the delegation is recalcitrant instead of accommodating.

Unfortunately, it is very hard to empirically determine the nature of the delegation because it depends on the location of the status quo. Assume that we know the location of the median voter in the delegation and in the assembly. To determine whether the delegation is accommodating or recalcitrant we need to know the position of the (unanimity or qmv-)pivot in the Council. But to determine this, we ultimately need to know, or speculate on, the position of the status quo.

Tsebelis and Money (1997) as well as Rasmussen (2008) agree on the representativeness of the parliamentary delegation with its parent chamber. In addition, Rasmussen (2008) finds that the delegation tends to reflect the composition of the whole assembly by political groups, as prescribed by the delegation-appointing rule. There are exceptions though. The largest parties tend to be overrepresented and, in six out of the 86 procedures analysed, the delegates' positions differed from those of their party colleagues in the assembly. There is also overrepresentation of members from the standing committee. For codecision cases in general, Costello and Thomson (2011) find that a representative rapporteur is beneficial to the Parliament.

The hypothesis is tested in Chapter 6, since interviews allow the identification of the median voter in the plenary and in the delegation.

largest party group. As a result, they come from the EPP or PES. As a consequence, most of the dossiers are led in dialogues by largest group delegates.

3.5. Implementation

I conclude the theories on bicameral bargaining and the Conciliation Committee considering how expectations about the implementation of a measure may affect the resolve of the Council and Parliament. This factor is ignored by the literature on legislative bargaining, but re-election minded politicians are ultimately concerned about the outcomes of their decisions: how the implementation of a measure delivers benefits to their constituencies. I will consider two issues.

3.5.1. The Commission's role

First, the Commission may be able to exert influence under favourable circumstances, when it enjoys some informational advantages or manages to assemble support from non-legislative actors (König et al. 2007; Moravcsik 1999; Pollack 2003; Rasmussen 2003). In conciliation, the Commission plays the facilitating role of proposing compromise agreement to the Council and the Parliament. But perhaps, aside from informal influence, the views of the Commission matter simply because of its *formal* role in legislative and implementation issues. Throughout the ordinary legislative procedure, the Commission produces its opinion on the parliamentary amendments both at first and second reading. Its opinion is relevant, especially on second reading. In order to overcome Commission's positions and reinstate the discharged amendments, the Council shall act by unanimity on the amendments on which the Commission has delivered a negative opinion (art. 294 of the Treaty of Lisbon), instead of qualified majority voting. Moreover, the Commission is directly in charge of implementation when legislative provisions confer upon it the power to take policy decisions. Even when no provisions foresee its involvement, this supranational bureaucracy is entrusted with the power to initiate proceedings against possible infringements by national administrations (e.g. Börzel 2001; Pollack 2003).

Although the Commission is not a legislative actor, it may influence the conciliation outcomes. The Parliament may increase its bargaining power when the Commission takes its side. From these considerations, I expect that:

Hypothesis 13: Conciliation outcomes are more likely to be biased in favour of the Parliament when the Commission gives positive opinion on the second parliamentary reading.

Empirical explanation focuses mainly on the Commission's role (König et al. 2007; Rasmussen 2003) since it takes the part in favour of one legislative actor or it acts as "strategic facilitator", confirming its influence on bargaining success. König and his colleagues find the importance of the opinion of the Commission in determining the relative success of the Parliament and Council in conciliation. In addition, Rasmussen concludes that the Commission gives a substantive contribution in the drafting of the compromise text in conciliation. My analysis further assesses the legislative influence of the Commission, both in qualitative and quantitative terms. I employ two of the most commonly used ways of measuring legislative influence, namely the use of *behavioural* and *reputational* indicators. The former calculate the percentage of amendments the Commission issues a positive opinion, as proxy of its views on the bill (in Chapter 5), whereas the latter refer to interviewing a range of participants about the influence of the Commission in the conciliation (in Chapter 6).

3.5.2. Implementation paths

Second, the relative involvement in policy execution of the Commission and national administrations vary across measures, and the ex-ante and ex-post mechanisms¹⁷ for overseeing implementation that are available to ministers and parliamentarians vary systematically across different implementation paths (Franchino 2007, 240–4). Some measures are primarily implemented by national authorities, others by the Commission. Where the Commission is the main implementer, each minister must rely on the collective will of the Council to exercise control over the supranational executive, for instance via the comitology procedures. For national execution, ministers, as head of their departments, are instead *individually* in charge of overseeing implementation and

¹⁷ Legislative design is an ex-ante control mechanism over implementation, while interpellations and inquiries are examples of ex-post control mechanisms (e.g. Epstein and O'Halloran 1999; Huber and Shipan 2002).

they have at their disposal a wider array of ex-post control mechanisms. Parliamentarians are in the opposite position. They use ex-post oversight mechanisms when a law is mostly implemented by the single Commission rather than several national authorities. Unsurprisingly, compared to ministers, parliamentarians prefer greater involvement of the latter at the expense of the former (Franchino 2007, 285–6). Because oversight via legislative design is more important to parliamentarians than ministers when national authorities are the primary implementers, they are expected to be less accommodating over the content of a law at the legislative stage. Moreover, the Parliament can rely more easily on other non-legislative means of implementation control (from appointment power to committee inquiries and other police patrol mechanisms). On the other side, because ex-post oversight is collective rather than individual when the Commission is the primary implementer, we should expect ministers being less accommodating at the legislative stage. As the implementation path is different, we expect that legislators change their stances accordingly. When the measure implies the Commission's implementation, national governments are more recalcitrant in the decision making. Conversely, when the measure implies national execution, it is the Parliament that is more recalcitrant at the legislative stage, so it can extract more concessions from the Council. Therefore:

Hypothesis 14: Conciliation outcomes are more likely to be biased in favour of the Parliament in the case of measures with greater involvement of national administrations.

This study provides the evaluation on the impact of implementation in the prior bargaining process in Chapter 5 and 6.

Conclusions

In research on bicameralism of the European Union in general, several hypotheses consider disagreement values, the role of institutions and relay actors as affecting the process and outcome of codecision. In this Chapter, I discussed the theoretical rationales for the impact of these factors on Conciliation Committee's outcome in detail. These factors are derived from formal models of bargaining and signalling. In addition,

I discussed the possible impact of several characteristics of the relay actors – the rapporteurs and the minister of the member state holding the Presidency. Rapporteurs from large parties, in leadership positions or from parties represented in the Council, and Presidents from newer member states are primarily involved in these inter-institutional bargaining where incomplete information and reputation building matter. During conciliation negotiations rapporteurs coming from larger party groups as well as rapporteurs holding leadership position may rely on several tools to manipulate the Council's belief, such as issuing credible veto threats. On the contrary, rapporteurs coming from parties represented in the Council are not so credible because the Council may be better informed about the Parliament's preferences. Finally, newer member states are still involved in learning process about how conciliation works and they may be object of manipulation.

Moreover, cohesive delegations and cohesive assembly are likely to enhance the Parliament's bargaining success, since they are more recalcitrant in accepting alternatives to the status quo. Finally, the role of Commission, both in its formal and informal influence in the legislative mechanism, and in the implementation path across measures, is largely recognized as influential factors in codecision bargaining.

I presented several hypotheses. Some of them are derived from the bargaining theory, others, mostly concerning the negotiating actors, are derived from the literature on EU politics. In some cases, I have added further hypotheses. The theoretical arguments developed in this Chapter will guide the empirical analyses. The three empirical Chapters will explore the Conciliation Committee's outcome and will aim at answering the key research question: who wins in conciliation?

Table 3.1 collects the hypotheses previously formulated and the empirical analyses conducted in order to investigate on them. Chapter 5 tests several hypotheses in all the conciliation dossiers. However, some theoretical arguments, underlying the influence of audience costs, the delegation's cohesiveness and the individual source of power of the relay actors, are only assessed qualitatively in Chapter 6. Lastly, Chapter 7 shows, through a formal model, some particularly interesting dynamics operating in conciliation, such as the role of belief manipulation and asymmetric information between the two delegations and the parliamentary assembly.

Table 3.1: Hypotheses and related empirical analyses

	Chapter 5 - Explaining conciliation's outcomes	Chapter 6 - Conciliation and negotiators	Chapter 7 - Modelling and analysing belief manipulation in Conciliation
Disagreement value			
<i>Hypothesis 1: Conciliation outcomes are more likely to be biased against the Parliament when the Council is closer to the status quo than the Parliament.</i>	✓	✓	✓
Institutions			
<i>Hypothesis 2: Conciliation outcomes are more likely to be biased in favour of the Parliament under qualified majority voting of the Council, rather than under unanimity.</i>	✓		
<i>Hypothesis 3: Conciliation outcomes are more likely to be biased in favour of the Parliament under the codecision version of the Amsterdam Treaty, rather than the early version of the Maastricht Treaty.</i>	✓		
<i>Hypothesis 4: Conciliation outcomes are more likely to be biased in favour of the Parliament when the size of the assembly is smaller.</i>	✓		
Uncertainty, veto threat and reputation			
<i>Hypothesis 5a: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur comes from larger parties.</i>	✓	✓	
<i>Hypothesis 5b: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur comes from smaller parties.</i>	✓	✓	
<i>Hypothesis 6a: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur is in a leadership position.</i>	✓	✓	
<i>Hypothesis 6b: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur is not in a leadership position.</i>	✓	✓	

<i>Hypothesis 7: Conciliation outcomes are less likely to be biased in favour of the Parliament when rapporteur is from a party represented in the Council.</i>	✓	✓	
<i>Hypothesis 8: Conciliation outcomes are more likely to be biased in favour of the Parliament when the Presidency of the Council is from a new member state.</i>	✓		✓
<i>Hypothesis 9a: Conciliation outcomes are more likely to be biased in favour of the Parliament when audience submits its costs.</i>	✓		
<i>Hypothesis 9b: Conciliation outcomes are more likely to be biased in favour of the Parliament at the beginning, rather than at the end of the legislative term.</i>			
<i>Hypothesis 10: Conciliation outcomes are more likely to be biased in favour of the Parliament when parliamentary actors have more experience on the dossier and on how to conduct the negotiations</i>		✓	✓
Representativeness and cohesiveness			
<i>Hypothesis 11: Conciliation outcomes are more likely to be biased in favour of the Parliament when the assembly voted cohesively.</i>		✓	
<i>Hypothesis 12: Conciliation outcomes are more likely to be biased in favour of the Parliament when the delegation is recalcitrant instead of accommodating.</i>			✓
Implementation			
<i>Hypothesis 13: Conciliation outcomes are more likely to be biased in favour of the Parliament when the Commission gives positive opinion on the second parliamentary reading.</i>	✓	✓	
<i>Hypothesis 14: Conciliation outcomes are more likely to be biased in favour of the Parliament in the case of measures with greater involvement of national administrations.</i>	✓	✓	

4. Quantitative text analysis: Wordfish and its validity

Scholars have variously attempted to overcome the long-standing problem of measuring actor preferences in the European Union. There are two approaches for the measurement of bargaining success in the EU legislature. The first one relies on interviews to experts or key participants in the decision-making process. Scholars identify the key controversial issues underlying the adoption of a bill and estimate the position of the actors involved, the saliency they attach to the issue and the location of the status quo. This approach has been widely used for important contribution in the study of EU legislative politics (Costello and Thomson 2011; König *et al.* 2007; Thomson 2011; Thomson *et al.* 2006). It applies to a large number of cases, but there are three main limitations. First, expert-interview estimates measure perceived by the interviewers rather than true positions of the actors in the Conciliation Committee. Second, it is difficult to go far back in time and produce valid estimates, both because memory fades and the availability of experts diminishes. For instance, König *et al.* (2007) select only dossiers reaching conciliation between 1999 and 2002. Third, because it is hard to replicate the measurement process, reliability may be a problem. Multiple experts and documentary evidence are however used to validate the data.

The second approach is based on comparing documents and producing measures of similarity. The research of Tsebelis *et al.* (2001), for instance, measures the success of parliamentary amendments by comparing documents of the Commission and the Council with the first and second reading of the Parliament. Unlike the previous method, this technique allows scholars to go far back in time and to replicate the measurement process. Reliability, though, may still be an issue.

The present study will employ this second approach. I will use legislative texts as source to assess the influence each chamber has on the final legislation and I will employ the computer-based Wordfish scaling algorithm developed by Slapin and Proksch (2009; 2008). This procedure enhances reliability and facilitates replication, more systematically and efficiently than the manual text analysis conducted by Tsebelis *et al.* (2001).

In the following sections, first I explain how documents were collected, treated and made feasible for being Wordfish-usable data. Then I highlight benefits and limits of Wordfish and I assess its validity vis-à-vis other techniques: the Wordfish estimation by employing five official documents, hand-coding and the expert survey conducted by König *et al.* (2007).

4.1. From official documents to Wordfish-usable data

The official documents of the Council, the Parliament and the Conciliation Committee need to be collected, standardized and processed in order to become usable data for Wordfish. Official documents of the institutions and the bicameral body, indeed, need to be polished before being processed by Wordfish

4.1.1. Document collection and data gathering

Data retrieval has involved several steps, due to the variety of documents. The starting point for identifying the sample of cases is the Commission's website on the codecision, unfortunately no longer updated since July 2012. In this website the Commission had collected all the proposals concluded by the Conciliation Committee on a joint text between 01.05.1999 and 31.12.2011 for a total amount of 116 files. As a matter of fact, the archive showed only those dossiers completed under the Treaty of Amsterdam. The website was useful, because it contained interesting links to both the European Parliament's and Council's websites dedicated to the Conciliation as well as reports on co-decision files agreed since 1999. In particular, the European Parliament's website contains extensive information on background documents (such as, the legal basis under

which the Conciliation is convened, the rule of procedure of the Conciliation Committee, etc.), the on-going and concluded procedures at various steps of the codecision. Moreover, the European Parliament and the parliamentary delegations to the Conciliation Committee have drawn up detailed activity reports on codecision and conciliation for each legislative term from 1993 onwards. Up to now there are five activity reports: the first report covers the period from 1st November 1993 until 30th April 1999 (date of entry into force of the Amsterdam Treaty), the second report refers to the 5th parliamentary term (from 1st May 1999 to 30th April 2004), the third report is a 2004-2006 mid-term communication, the fourth report covers the 6th legislature (from 1st May 2004 to 13th July 2009), finally the last report deals with the 7th mid-term (from 14th July 2009 to 31st December 2011). Each report provides an overview of the codecision dossiers, highlights the main developments of the Treaty provisions occurred during the legislature and offers quantitative and qualitative analyses on both codecision and conciliation dossiers. Finally and most importantly, the reports list the codecision dossiers completed under the periods covered, making possible the identification of the whole sample of the legislative text adopted by the Conciliation Committee, with the relative code of reference. As illustrated in Table 4.1, 185 codecision dossiers have reached the conciliation stage since the entry into force of the Maastricht Treaty up to February 2012. On four occasions, the committee failed to produce a joint text¹⁸. During the fourth and fifth parliamentary term, the Conciliation Committee has been employed frequently, thus indicating significant inter-institutional conflict. The Treaty of Amsterdam, that made early agreements possible, did not seem to ease up tensions, at least in the first five years.

¹⁸ The dossiers without joint text are: the directive on investment firms and credit institutions (COD/1995/0188), the directive on the working time (COD/2004/0209), the regulation on novel foods (COD/2008/0002). As far as the directive on the Open Network Provision to voice telephony (COD/1992/0437) is regarded, it was negotiated under the first version of the codecision procedure. Because negotiating failure at conciliation, the Council confirmed its common position. I eliminate it from the sample as well.

Table 4.1: The incidence of conciliation

EP legislative term	Codecision proposals	Conciliation negotiations	Incidence (%)
III (1989-1994)	49	4	8.2
IV (1994-9)	270	63	23.3
V (1999-2004)	482	86	17.8
VI (2004-9)	541	24	4.4
VII (2009-29 th February 2012)	270	8	2.6
Total	1612	185	11.4

On the other hand, there has been a significant drop in the employment of the Conciliation Committee over the last two legislative terms. This could indicate better working of the mechanisms of inter-institutional cooperation. The lower incidence is also a product of the extension of the ordinary legislative procedure to the majority of EU policy areas, thus inflating the denominator.

The second step of the selection procedure is the document collection. Since the text analyses I have conducted is based on the documents of the last two stages of the codecision procedure, the main task was to find out the parliamentary 2nd reading, the Council common position and the joint text for each dossier. In order to get the exact reference code of the legislative texts, I employed two different online databases: the OEIL – the Legislative Observatory of the European Parliament – and the PreLex database. Both databases monitor the inter-institutional decision-making process in the EU and their webpages describe the progress of a proposal that has been transmitted by the Commission to the other EU institutions. The webpages describe mainly the characteristics of the dossiers file (e.g. title, type of document, policy area, legal basis – and formal aspects of the decision-making process), type of procedure, reference date of each document and its publication on the Official Journal and the rapporteur in the European Parliament. In the OEIL database, moreover, it is possible to have a short summary on the documents' content, explaining the differences occurred along the procedure.

From the databases I downloaded in PDF format the parliamentary second reading, the Council common position and the joint text formulated by the Conciliation Committee,

and the printable version regarding all the information appeared for each legislative procedure. Nevertheless, due to the long observation period, documents were not entirely downloadable in either the database. Dossiers of the third and fourth legislatures were not available electronically and data collection was conducted manually in the respective printed versions of the Official Journal of European Union. Even though the legislative texts of the European Parliament and the Council were easy to find out in the Official Journal, the joint texts, on the contrary, was quite a cumbersome task. Transparency and access to documents of the Conciliation Committee are still an issue. The joint text, indeed, is not published in the Official Journal until it does enter into force. Since the joint text is conceived as a working paper intended as a compromise of dialogues, belonged to the delegations to the Conciliation Committee, I requested the non-downloadable joint texts from the public registers of the European Parliament and the Council.

The amount and the type of documents matter. In this analysis, I selected three relevant documents for each conciliation dossier, on which the estimates were based: the second reading of the Parliament, the Council common position and the joint text. The selection of the three documents follows how the Conciliation Committee operates, as illustrated in Chapter 2. Document processing involves 537 files.

4.1.2. Document processing

Before documents becoming Wordfish-usable data, they need to be processed. Document processing entails the correction of texts of mistyped and misspelled words, the removal of unnecessary information as well as word stemming.

I reviewed the documents and corrected the mistyped and misspelt words, employing also the spelling and grammar check of Microsoft Word. Extensive review was necessary because Microsoft Word tool detects mistyped, rather than misspelt, words. For example, a word ‘form’ that should be ‘from’ is not detected because it is correctly written, even though it has a different meaning. Moreover, the tool is unable to detect words which contain numbers (e.g. ‘collect’ instead of ‘collect’), unless not properly check in the options of the software. These two kinds of errors are extremely relevant,

also taking into account that a lot of the old collected documents were scanned, converted in PDF files, and then translated into machine-encoded text through the Optical Character Recognition (OCR). As a consequence, this conversion procedure is not fully accurate and produces misspelling and mistaken words, which are undetected by *Microsoft Word*. I checked all the documents manually in order to correct the mistyped words, then I used JFreq¹⁹. As extensively described later, JFreq create a term-document matrix, in which all words in the document are counted. The frequency-word file lists all the words – also the misspelled and mistaken – contained in the text, and I could correct them thanks to an open-source software for text editing – Notepad ++. With this text-editing program, I deleted unnecessary parts, for example references to the author (Council, Parliament or Conciliation Committee), the competent directorate-general or subunit of the Commission and the number of pages, regular expressions as well as symbols and abbreviations. Abbreviations referring to units of measurement, mathematical or chemical formula, irrelevant footnotes, such as those referring to international conventions or EU legislation, and acronyms of international organizations or institutions were removed.

After being corrected, the texts are ready to be processed by JFreq, which can remove stopwords and stem words as well as create a term-document matrix in comma-separated value format (CSV format). Stopwords are words that are so common in a language, such as “*and*”, “*then*”, “*but*”, whose information value is almost zero and whose estimation would be then inefficient. Other words were considered as stopwords in the present analysis: because they are so common that they could have distorted the final analysis. These were “*article*”, “*annex*”, “*paragraph*”, “*whereas*”, “*OJ*” (meaning “Official Journal”) and so on. In order to remove these words in an efficient way, I produced a txt file in which I collected all the words having unnecessary information, then I uploaded it to JFreq. The removal of unnecessary information can be done with

¹⁹ JFreq is an open-source tool, which counts word frequency for text. JFreq contains several data preparation features, namely data importation from text documents, conversion to plain text, conversion to lower case, removal of stopwords and numbers, stemming words in multiple languages, creation of term-document matrix.

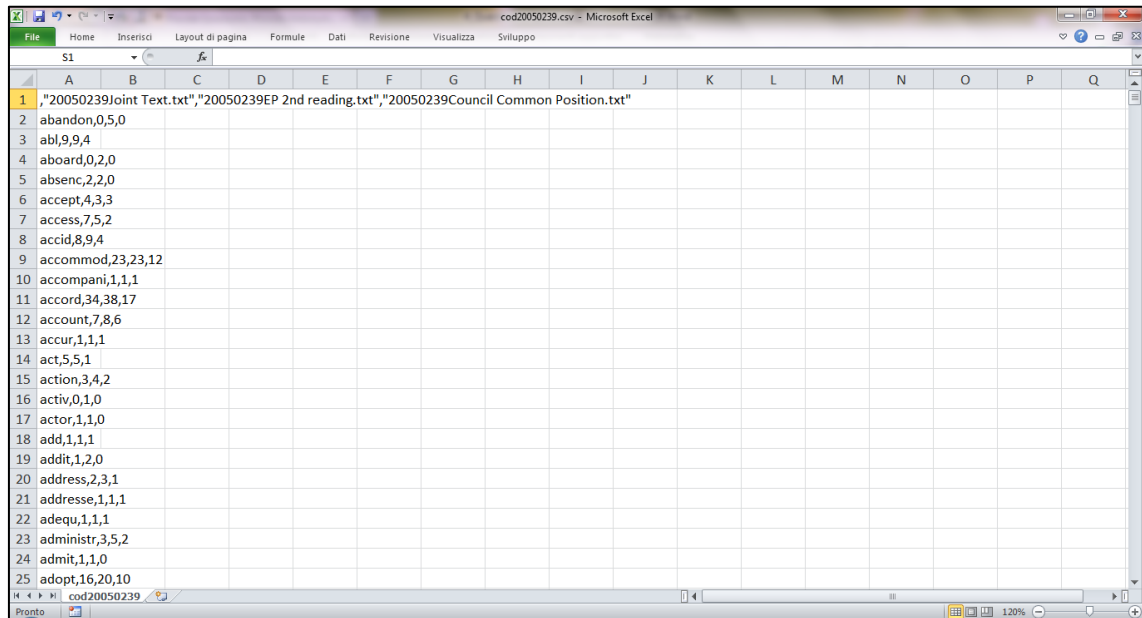
either pattern-matching using PYTHON scripts or JFreq, which has the advantage to have a GNU interface.

The last two features of JFreq – word stemming and the creation a word count dataset – can be done also using the text mining packages in R called TM, which have the same rationale behind. First of all, both JFreq and TM contain algorithms able to remove morphological and inflexional endings from words, fixing a predetermined language. In the cases under examination the fixed language was English, so the stemmer reduce the words according to the English dictionary. The advantage is that words with the same root are captured as one unique word, making the estimation more efficient (Proksch and Slapin 2009): “*working*”, “*worker*” and “*works*” are stemmed into the root word “*work*”. Unfortunately the stemming process has two potential disadvantages. Firstly, certain compound words are stemmed losing information. Secondly, stemming based on one language dictionary. I employed Notepad++ to delete non-English words referring to national institutions, but I maintained those words that are getting common also in the English lexicon, as for example Latin or other foreign words, such as “*inter alia*”, “*mutatis mutandis*” and “*Leitmotiv*”.

It is worth noting that the removal of stopwords, abbreviations, legends, footnotes are at the researcher’s discretion, others might disagree with one’s decisions. Since the objective of this study is to focus on the specific content of the legislative texts, these words could interfere in the final analysis.

Finally, JFreq is run and it produces a term-document matrix containing all words employed in the legislative texts in rownames, and the word frequencies for each legislative text in columns. Figure 4.1 illustrates the csv files of the codecision dossier COD/2005/0239: the first 25 words were here printed as example. The stemmed word “*accommod*” recurred 23 times in the joint text and in the Parliament’s position, 12 times in the common position.

Figure 4.1: The csv file processed by JFreq



	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	,"20050239Joint Text.txt","20050239EP 2nd reading.txt","20050239Council Common Position.txt"																
2	abandon,0,5,0																
3	abl,9,9,4																
4	aboard,0,2,0																
5	absenc,2,2,0																
6	accept,4,3,3																
7	access,7,5,2																
8	accid,8,9,4																
9	accommod,23,23,12																
10	accompani,1,1,1																
11	accord,34,38,17																
12	account,7,8,6																
13	accur,1,1,1																
14	act,5,5,1																
15	action,3,4,2																
16	activ,0,1,0																
17	actor,1,1,0																
18	add,1,1,1																
19	addit,1,2,0																
20	address,2,3,1																
21	addresse,1,1,1																
22	adequ,1,1,1																
23	administr,3,5,2																
24	admit,1,1,0																
25	adopt,16,20,10																

In the section on validation, I examine the validity of these estimates comparing them with those produced using five documents (adding, therefore, the Commission proposal and the first reading of the Parliament), although these first two documents are ignored during the Conciliation Committee's negotiations. 895 documents were then collected and processed according to the procedure developed in this section. As a result, 179 term-document matrices were created, containing three or five columns so to produce Wordfish estimates based on three or five documents.

Once the term-document matrix is created, Wordfish can be run on the word count dataset.

4.2. Text analyses

4.2.1. Wordfish

Wordfish is a recently developed quantitative text analysis, that estimates positions from texts on a predefined single policy dimension by relying on word frequencies. It is more efficient, it facilitates replication and minimizes reliability problems compared to

hand-coding techniques. Wordfish is an automated scaling technique, developed to run with the R statistical software. This technique has already been employed to several textual documents (manifestos, speeches, statements and pledges) in order to measure policy positions of political parties and interest groups in Germany, Japan, Italy and the European Union (Ceron 2012; Klüver 2009; Proksch, Slapin, and Thies 2011; Proksch and Slapin 2010; Slapin and Proksch 2008).

Wordfish assumes that relative word frequencies of textual documents provide information about actors' placement in the policy space, since they determine the differences between several documents scaling on a latent single dimension. Frequencies are assumed to be generated by a Poisson process (following an extensive literature on textual analysis²⁰), which has the merit of having a single parameter λ_{ij} , mean and variance coinciding.

Hence the stochastic component of the model is

$$Y_{ij} \sim \text{Poisson}(y_{ij} | \lambda_{ij}),$$

Where y_{ij} is the count of word j in actor i 's document (e.g. manifesto, speech, legislative text, etc.). The systematic component is estimated through an expectation maximization algorithm, which allows computing maximum likelihood estimates for latent variables. The algorithm involves two steps: in the first step the expectation of the latent variable is calculated as if it were observed; in the second step the log-likelihood is maximized conditional to the expectation. The systematic component is

$$\lambda_{ij} = \exp(\alpha_i + \psi_j + \beta_j \omega_i).$$

Where α is a set of actor fixed effects and controls for the length of the documents under examination, that is to say, the possibility that some actors write or talk more. ψ is the word fixed effects and capture the fact that some words such as prepositions, articles, stopwords, etc. are more often used than other words by all actors without substantive

²⁰ For a review see Slapin and Proksch (2008, 708)

meaning. β is an estimate of a word specific weight capturing the importance of word j in discriminating between positions, and ω is the estimate of actor i 's policy position.

The two parameters of interests are β and ω . ω represents the policy positions of textual documents. Studies employing Wordfish have analysed party, faction or interest group positioning along a policy latent dimension, which is not estimated *a priori*. The actors' ideal points are then located along this scale whose meaning is deduced according to the political content of the documents. For instance, Slapin and Proksch's (2008) work aimed at identify a generic left-right dimension, by using the entire party manifestos of Germany's post-reunification era. They captured also party positions on specific policy issues – economic, societal and environmental policies – by running the algorithm on policy-specific sections. Since the present analysis deals with institutions' legislative documents, Wordfish estimates the institutions' positions. The institutions' positions are scaled along a single bargaining dimension, that should not be interpreted as a Euclidian policy dimension.

The other parameter, β , captures the importance of a word and, through the log-likelihood estimated for every word, the algorithm reduces the weight given to words that are mentioned very infrequently which might discriminate across texts. As a result, words with large weights have a politically relevant connotation. Moreover, highly frequent words have a discriminating power close to zero, while words that appear in a few documents have higher values of β .

Wordfish has advantages and drawbacks, when comparing with other techniques of text analysis. As Slapin and Proksch (2008) explain, the usefulness of computer-based analysis implies replicable and reliable estimates as well as a straightforward and fast technique to implement, in comparison of hand-coding analysis, such as the Comparative Manifesto Project (Budge, Robertson, and Hearl 1987; Budge et al. 2001). In addition, Wordfish has other advantages vis-à-vis other computer-assisted techniques, such as Wordscore (Laver, Benoit, and Garry 2003). Wordfish assumes the word usage remains constant over time and randomly distributed, by producing time series estimates. A manifesto from party A at time $t+1$ is simply treated as a new document and it is assumed to be unrelated to party A's manifesto at time t . As a result, in case an actor produces several documents at different point in time, but the word

usage remains constant, the position of that actor would be unaltered. Moreover, Wordfish does not require, unlike Wordscore, the use of reference texts and reference values to anchor the documents in order to fix the underlying policy continuum. Instead of estimating manually the extremes of the political space, word usage of political actors provides information about their placement. This feature is extremely relevant for the present analysis. Reference values as well as the reference texts²¹ would have been problematic when considering the identification of the reference text and the appropriate extremes of the political space for the conciliation files. In other words, it would have been impossible to recognize both the underlying political dimension for each proposal and the respective extremes of those dimensions, which is what Wordscore requires.

Finally, Wordfish has also some problematic features though. It constrains positions on a single dimension, estimated by the parameter ω . In their analysis, Slapin and Proksch (2008) find an underlying left-right dimension in political manifestos²², but I cannot have the same expectation for the documents under examination in this study. The extraction of policy position in my case derives from legislative documents of institutions and not from party manifesto or parliamentary speeches. The documents, therefore, are not sample of ideological statements in which is possible to identify words and lexicons of a particular ideological area of reference. On the contrary, the legislative texts are institutional positions and thus do not contain reference to a likely left-right dimension, rather they can distinguish themselves on a specific dimension according to the policy issue at stake. The fact that there tends to be a privileged dimension of conflict in bicameral bargaining brings some solace (Tsebelis and Money 1997, 90), although more than one dimension may persist in these negotiations (König et al. 2007).

²¹ Wordscore obtains reference value and the reference texts from previous expert survey (Laver, Benoit, and Garry 2003).

²² To obtain specific policy positions, researchers have to run the model only on manifesto sections regarding that specific policy. In this sense, if researchers want to estimate positions on economic policy, they have to isolate the manifesto sections on economic policy only.

Wordfish has been run for each legislative dossier at one time, so it produces estimates of the three (or four) institutions' position. The documents contain on average more than 600 unique words when three texts are analysed together, and around 750 unique words when five texts are analysed. Table 4.2 synthetizes the descriptive statistics of each dossier's unique words, appearing on the document matrices, in case of three and five documents. According to Proksch and Slapin (2009), the documents are long enough to avoid concerns about the stability of word parameters. They are unlikely to produce infinite weight for words.

Table 4.2: Descriptive statistics on unique words.

Dossier	Obs.	Mean	SD	Min	Max
With 3 documents	179	636.5642	337.84	86	2451
With 5 documents	179	749.8939	365.4627	173	3066

4.3. Does Wordfish produce correct estimates?

In this section I report the results of a validation exercise of the text analysis. The trade-off between validity and reliability is central to the debate over hand-coding or computerized techniques, since usually hand-coded measuring is associated with low reliability but high validity, while computer-assisted technique has the advantage of having high reliability, but low validity. The validation exercise consists of an investigation of Wordfish as a valid technique for extracting information from texts, as well as the generalizability of the measures (external and internal validity) and the extent to which the procedure yields the same results on repeated trials (Neuendorf 2002, 112).

Despite Krippendorff (2004, 211) refers to qualitative text analysis, his definition of reliability is crucial.

A research procedure is reliable when it responds to the same phenomena in the same way regardless of the circumstances of its implementation [...] In content analysis, this means that the reading of textual data as well as of the research

results is replicable elsewhere, that researchers demonstrably agree on what they are talking about.

Reliability of policy positions estimated through computer-assisted text analysis is not an issue, though. In order to guarantee the reliability of Wordfish output over time, I extensively explain the procedure I employed for document collection and processing.

Does Wordfish ensure the validity of estimates? “are we measuring what we want to measure?” (Neuendorf 2002, 112)²³. Validity, indeed, might be problematic in Wordfish estimates. Many scholars adopting Wordfish rely on the β estimators – which discriminate policy positions in the text drawing on word weights – to verify the validity of the results with hand-coding approaches. The higher the word weight (β), the more the word is responsible for the estimation of the text’s policy position. On the contrary, word fixed effects (ψ) capture the word frequency. The higher word fixed effect, the more frequent the word is used in the text and the less such word discriminates across policy positions. By contrast, words mentioned very infrequently carry on high political meaning. This is the essence of the “Eiffel Tower of the Words” (Slapin and Proksch 2008), which plots the estimated word fixed effects and the word weights. As an illustrative case, in Figure 4.2 I plot the β and ψ estimators regarding the dossier on Banana Accompanying Measure (COD/2010/0059).

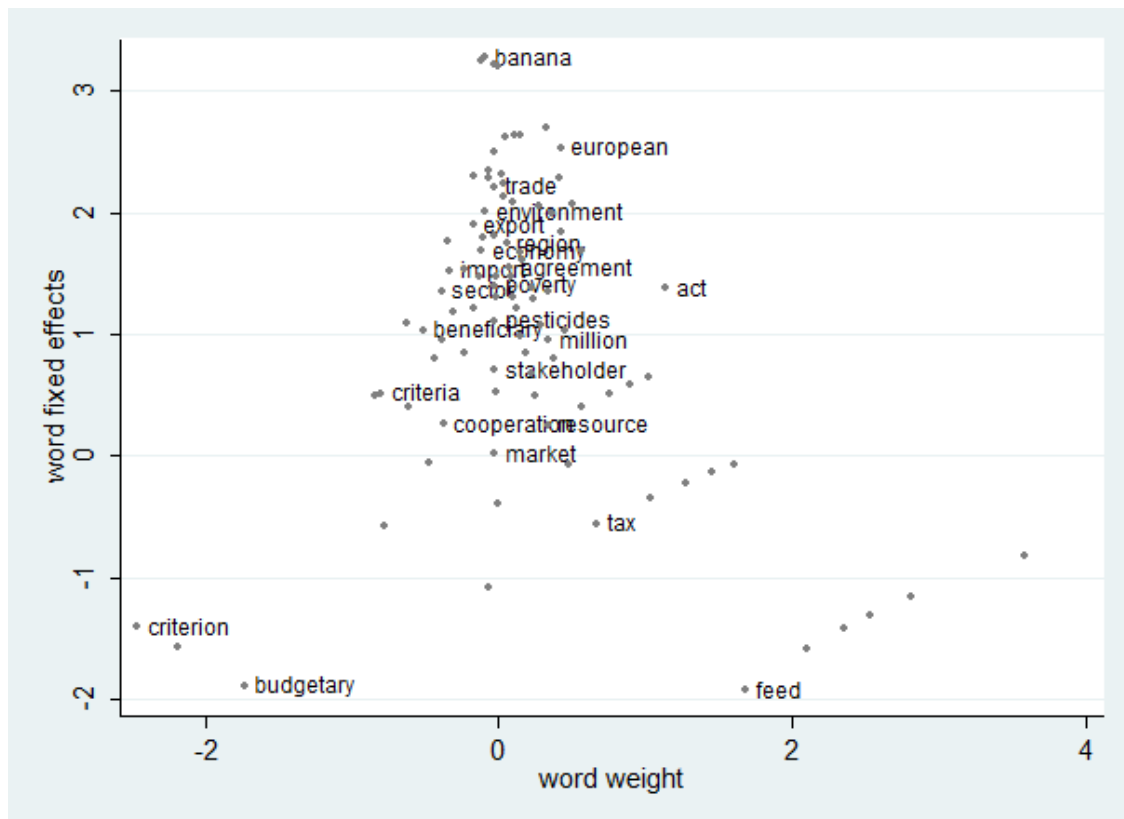
As expected, the scatterplot takes the shape of an “Eiffel Tower of words”. Frequent words (as banana, European, environment, etc) have large fixed effects associated with weights close to zero.

However, I decided to test the validity of Wordfish differently, for two main reasons. First, many words have the same β and ψ , and it is hence difficult to assess validity. Second, I performed Wordfish in 179 dossiers and I cannot reproduce here the analysis for each dossier. In the next sections, Wordfish will be tested for its validity, by

²³ According to Slapin and Proksch (Slapin and Proksch 2008), the stability of the word parameters improves if the estimation is performed using more and longer documents. I do not have a problem of length in my case and in the following section I consider the possibility in including five documents in the estimation procedure. On the other hand, using documents from different dossiers is meaningless because it implies applying a single dimension to different policy areas. Moreover, this process cannot be sustained by Wordfish, since it is not able to run all the documents at the same time.

comparing its estimates with those derived from three alternative procedures: Wordfish estimation employing five official documents, hand-coding and expert surveys.

Figure 4.2: Word weights vs. Word fixed effects in COD/2010/0059



4.3.1. Comparison with EP success estimates based on five documents

In this section I consider the addition of two more documents in the estimation process through Wordfish: the Commission proposal and the first reading of the Parliament. Note that this is not how the Conciliation Committee operates. The first two documents are ignored. Despite some freedom of manoeuvre (Tsebelis and Money 1997, 176–9), negotiations tend to be germane, with the two delegations bargaining over a four-column working document listing the second reading of the Parliament and the common position of the Council, along with the updated positions of the two delegations.

In Chapter 5, I will extensively clarify how I obtained such variables and the operationalization process it has been developed, but few anticipations are relevant here,

though. Through Wordfish, I have produced the ω estimates of the second reading of the Parliament, the common position of the Council and the joint text using five documents, and computed the dependent variable, *EP success*, which measures the bargaining success in a given dossier d :

$$EP\ success_d = \begin{cases} 1 & \text{if } |\omega_{EP2} - \omega_{JT}| < |\omega_{CP} - \omega_{JT}| \\ 0 & \text{if } |\omega_{EP2} - \omega_{JT}| > |\omega_{CP} - \omega_{JT}| \end{cases}$$

This variable measures the differences between the two legislators' positions and the final agreement of the Conciliation Committee and it takes the value of 1 when the Parliament's second reading position is closer to the joint text than the Council common position, otherwise it takes the value of 0. As extensively explained in the next Chapter, ω estimates allow the operationalization of *EP success*. This variable is positively and significantly correlated with the *EP success* measure based on three documents, but the correlation is not substantively large (Spearman's correlation coefficient rho is 0.3380, $p < 0.001$).

As Chapter 1 illustrates, conciliation negotiations are likely to be structurally biased against the Parliament. Findings reveal that the Council is in a successful bargaining position, not only according to the three-document measure, but to this five-document one as well. The five-document estimates of the joint text are closer to the position of the Parliament in only 74 of the 179 dossiers. In Table 4.3, I show the results of binomial tests with an epiphenomenal Conciliation Committee as null hypothesis. The probability that the expected frequency of success, in case of an epiphenomenal committee, exceeds the observed frequency is above 99 per cent in the full sample and the fourth legislative term. There are some important differences as well though. The probability of parliamentary success is not significantly less than 0.5 in the fifth and sixth terms. The five-text estimation procedure picks up then a strengthening of the Parliament over time (not because of the second version of the codecision procedure²⁴ as

²⁴ The second version of the codecision procedure was introduced by the Treaty of Amsterdam (1997) and the most substantive provision, for the purpose of this study, regards the reform in the conclusive stage. Under the Treaty of Amsterdam, in the case the Conciliation Committee does not reach any agreement,

its effect is insignificant) or, perhaps, finds it harder to distinguish between the last three documents as legislators interact more closely (with trialogues) as they are approaching to conciliation.

Table 4.3: Frequency of parliamentary success (ω estimates based on 5 documents)

		EP legislative term		
		IV	V	VI
<i>EP success</i>	74	18	41	10
N	179	59	86	23
z-statistic	-2.32	-2.99	-0.43	-0.63
Pr ($k \geq EP\ success$)	0.992	0.999	0.705	0.798

Note: One-sided binomial probability tests; k is the expected frequency in case of $H_0=0.5$

What else can explain these differences? And, more importantly, which measure is more valid? If changes have occurred during a procedure, the first two documents may be so different from the last three that it would be meaningless to impose a single dimension upon all five texts. The validity assessment of Wordfish estimates, measured upon three documents instead of five ones, needs to investigate under which conditions the estimated difference might occur.

Determinants of the difference

I examined several variables, which might have an impact on the different bargaining success estimate upon three or five documents. These variables measure changes occurring throughout the legislative process, such as changes in the type of procedure (from cooperation to codecision), in rapporteur, in the Commission (from Delors, to Santer, Prodi and Barroso Commissions) or even in the Commissioner responsible (for example, the directive on the quality of bathing water, COD/2002/254, was bargained under the lead of Margot Wallström, first, and Stavros Dimas, later, both Commissioner

the act is dismissed. The Council can no more reinstate its prior position, as occurred under the Treaty of Maastricht. In the fifth Chapter I will explain how the Treaty of Amsterdam is likely to have changed outcomes of the Conciliation Committee.

for Environment) as well as the number of months passed between the parliamentary first reading and the Council common position.

The variables are operationalized in the following way. The dependent variable, *EPsuccess_3_5*, compares the results from the *EPsuccess* measured with three documents or with five documents. It takes the value of 1 whether the two measures coincide. Changes in the type of procedure, *Changed procedure*, takes the value of 1 if the dossier was subject to the cooperation or consultation procedure and then it was subject to codecision, while it was negotiated at various stages of the legislative process. *Changed rapporteur* measures changes in the rapporteur over the legislative process, so it takes the value of 1 if the change occurred. Finally, *Changed Commission* and *Changed Commissioner* take the value of 1 if the Commission and the Commissioner responsible, respectively, have changed between the adoption of the first reading of the Parliament and the joint text. Finally, the last variable concerns the length of the legislative process, in particular the monthly time span between the parliamentary first reading and the Council common position.

Table 4.4: Descriptive statistics of the independent variables

Variable	Obs.	Mean	Std. Dev.	Min	Max
Dependent variable					
Differences in success	179	0.687	0.465	0	1
Independent variables					
Changed procedure	179	0.168	0.375	0	1
Changed rapporteur	179	0.140	0.348	0	1
Changed Commission	179	0.341	0.475	0	1
Changed Commissioner	175	0.417	0.495	0	1
Procedure length	179	0.299	0.432	-0.11	3.34

In order to better understand the validity of three-document estimates, I consider as control variables also the three explanatory factors, which will be better examined in Chapter 5: institutional features, factors concerning uncertainty and veto threats, and implementation of the measures. I show four models with the variables identified as determinants in explaining outcomes of the Conciliation Committee's negotiations.

Table 4.5 summarizes these explanatory variables and gives their concise description and operationalization, to which I dedicate Chapter 5.

Table 4.6 shows the four models and the likely determinants of the differences in parliamentary success between the Wordfish estimates based on five documents and three documents. The five explanatory variables on changes cannot explain these differences. However, including the three factors on institutional features, uncertainty and veto threats, and implementation, two seem significantly relevant. In model 3 and 4, indeed, the shares of parliamentary amendments and the unanimity rule within the Council are statistically significant when both the change of the Commission and of the Commissioner responsible are included. First, when the Commission decides to reject all the parliamentary amendments at second reading, rather than half of them, the chances that the two measures based on three and five documents increase their divergence by 25.4 percentage points. This could indicate that in the circumstances where the Commission accepts all the second reading amendments, the greater Parliament's intervention on the final legislative outcome means substantive difference across the five legal texts. Given that Wordfish imposes a single underlying dimension upon which the actors bargain, such divergence across the five legislative documents might be problematic.

Second, the two measures diverge when the Council decides by unanimity. The five-document estimate displays a split-the-difference outcome (six parliamentary wins out of fourteen cases), while the three-document estimate displays a poor parliamentary performance (only one parliamentary win). Certainly, selecting a measure on the basis of whether it corroborates the expectation is questionable, but I have doubts how valid a measure is, if it indicates equal power between Parliament and Council even when the latter decides by unanimity.

In the next section, I discuss how hand-coding estimates also correlate more with Wordfish estimates based on three rather than five documents. On balance, the former procedure seems to produce more valid measures.

Table 4.5: The explanatory variables

Variable	Description	Operationalization
<i>Institutions</i>		
Unanimity	Unanimity prescribed by the Treaty for Council's decisions	= 1 if unanimity is required, 0 otherwise
Codecision II	Committee negotiations have taken place after 1 May 1999	= 1 if 2 nd version of codecision, 0 otherwise
MEPs	The size of the assembly at the time of the adoption of the joint text	Number of MEPs
<i>Veto threats and reputation</i>		
Leader rapporteur	Rapporteurs from large parties may service better their assembly	= 1 if rapporteur in leadership position, 0 otherwise
Large party rapporteur	Rapporteurs in a position of leadership within the Parliament may service better their assembly	= 1 if rapporteur from EPP or PES, 0 otherwise
Government rapporteur	Rapporteurs from national parties that are represented in the Council	= 1 if rapporteur from party in government, 0 otherwise
Presidency state seniority	Belief manipulation when President comes from a new member state	ln(no. of membership years of President country)
Term length	Belief manipulation at the beginning of term	No. of months into parliamentary term
<i>Implementation</i>		
Commission rejection	The influence of the Commission	Share of EP amendments rejected by Commission
Directive	The relative involvement of the two sets of implementers	= 1 if directive, 0 otherwise
<i>Other factors</i>		
New act	Parliament empty-handed when failure occurs	= 1 if new act, 0 otherwise
Package	Deals within the Council and compromise level with the Parliament.	= 1 if part of package, 0 otherwise

Table 4.6: Determinants of differences in parliamentary success

	Model_1	Model_2	Model_3	Model_4
<i>Changes</i>				
Changed procedure	-0.103 (0.298)	-0.138 (0.304)	-0.395 (0.387)	-0.446 (0.387)
Length between the 1 st and 2 nd reading	-0.200 (0.265)	-0.110 (0.262)	-0.0629 (0.341)	0.136 (0.308)
Changed rapporteur	-0.180 (0.312)	-0.0194 (0.297)	-0.131 (0.342)	0.0376 (0.319)
Changed Commission	0.170 (0.252)		0.393 (0.348)	
Changed commissioner		-0.137 (0.223)		-0.0962 (0.274)
<i>Institutions</i>				
Unanimity			-0.971** (0.397)	-0.858** (0.405)
Codecision II			-0.292 (0.266)	-0.254 (0.264)
MEPs			0.264 (0.231)	0.246 (0.232)
<i>Veto threats and reputation</i>				
Leader rapporteur			0.208 (0.241)	0.222 (0.243)
Large party rapporteur			0.0590 (0.226)	0.0573 (0.223)
Government			0.259 (0.221)	0.222 (0.228)
President state seniority			0.125 (0.139)	0.103 (0.139)
Term length			0.104 (0.352)	-0.200 (0.330)
<i>Implementation</i>				
Commission rejection			0.786** (0.368)	0.773** (0.383)
Directive			-0.323 (0.244)	-0.326 (0.252)
<i>Other factors</i>				
New act			0.296 (0.248)	0.222 (0.236)
Package			-0.339 (0.252)	-0.320 (0.256)
Constant	0.535*** (0.128)	0.603*** (0.139)	-1.817 (1.608)	-1.274 (1.595)
Observations	179	175	179	175
Log-pseudolikelihood	-110.5	-108.1	-102.4	-101.4
Wald chi2	1.439	1.694	19.27	16.11

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

Dependent variable: EP success_3_5.

4.3.2. Hand-coding text analysis

Because Wordfish has never been used to extract policy positions from legislative documents, I have compared its estimates with those derived from hand-coding. I randomly selected twenty legislative dossiers²⁵ and compared the joint text with the second parliamentary reading and the Council common position.

The twenty procedure proposals were analysed qualitatively, by tracking amendments through the last three stages of the legislative procedure. Amendments reflect differences between the institutions' positions, upon which some forms of bargaining among the EU institutions – Council of Ministers, European Parliament and Conciliation Committee – can take place. As Tsebelis *et al.* (2001) point out, amendments are the solution institutions give to cases of manifest disagreements: “once such disagreements exist they are resolved one way or another mainly because of the influence that different actors exercise in the law-making process”. Consequently, amendments and changes assess empirically the influence of each actor on the final text of the European legislation.

I coded more than five hundred modifications, roughly following Tsebelis *et al.* (2001). These include Parliament's and Council's amendments as well as changes produced by the joint text. I determined whether the wording of the joint text provisions could be easily associated with the wording of the relevant provisions in either the reading of the Parliament or the Council common position. Hereafter, the guidelines I followed to apply the classification of the provision modifications.

First, for each procedure files a spread-sheet was created in which each row refers to amendments and changes, while the column represents the last three stages of the procedure, namely the Council common position, the Parliament's position at second reading and the joint text. Each amendment and each change generates a profile, indicating the actions taken. Second, a judgement is made as to the degree to which the

²⁵ These are COD/2005/0239; COD/2005/0191; COD/2004/0175; COD/2003/0168; COD/2001/0257; COD/1998/0336; COD/1998/0289; COD/1998/0195; COD/1997/0370; COD/1997/0176; COD/1997/0067; COD/1996/0085; COD/1997/0146; COD/1995/0209; COD/1995/0080; COD/1994/0222; COD/1994/0135; COD/1993/0471; COD/1992/0426; COD/1992/0415.

provisions in the joint text are more similar either to the second reading of the Parliament or the Council's common position.

If the joint text was adopted verbatim either version of the text, this amendment was labelled *EP2 adopted* or *CP adopted*. If the joint text modified either the Parliament's or Council's version without altering its substantive meaning, I labelled this amendment *EP2 partially adopted* or *CP partially adopted*.

Where I could not determine easily whether the provision in the joint text was more similar to either one of the other two documents' versions, I used three coding categories: a) *Partially changed* for circumstances where the joint text provision modified by less than 40 per cent of the wording of both the parliamentary and Council variant, b) *Largely changed* if the joint text provision modified by more than 40 per cent such wording, and c) *New/deleted* when a new provision was introduced or both the Council's and the Parliament's variants were deleted. This classification scheme is illustrated in Table 4.7.

This classification scheme errs on the side of caution. It is worth noting that the assessment of the degree of adoption is based on subjective judgements. Two coders can disagree on the degree of adoption because of very slight differences that can occur in those texts.

Table 4.7: Classification scheme for hand-coding modifications

Can the joint text provision be easily associated with the relevant provision in either the reading of the Parliament or the Council common position?	
<i>Yes</i>	
Substantive meaning	Labels
EP2 Amendment is adopted verbatim	<i>EP2 adopted</i>
CP Amendment is adopted verbatim	<i>CP adopted</i>
EP2 Amendment is partially adopted	<i>EP2 partially adopted</i>
CP Amendment is partially adopted	<i>CP partially adopted</i>
<i>No</i>	
Less than 40% of the words of <i>both</i> texts modified	<i>Partially changed</i>
More than 40% of the words of <i>both</i> texts modified	<i>Largely changed</i>
New text or both Council's and EP's versions removed	<i>New/deleted</i>

Given the complexity of some legal texts, determining whether the changed provisions are more similar to the Council's or the Parliament's variant is not an easy task.

Starting from a straightforward example, take article 1 of the draft directive establishing a Community vessel traffic monitoring and information system (COD/2005/0239). The common position read:

Article 1 point 9(2-c) - information on the coastline of the Member States, *which will assist the assessment of a ship in need of assistance in a place of refuge*, including the description of environmental, economic and social factors and natural conditions.

In its second reading, the European Parliament added the bold sentence and deleted the italicized text of the common position:

Article 1 point 14(2-c) - information on the coastline of Member States **and all elements facilitating a swift assessment and a rapid decision regarding the choice of place of refuge for a ship in need of assistance**, including the description of environmental, economic and social factors and natural conditions.

In the end, the Conciliation Committee agreed on the following provision in the joint text. The delegations modified slightly the previous parliamentary position, deleting the text in italics above and adding the word in bold.

Article 1 point 11(2-c) - information on the coastline of Member States and all elements facilitating a **prior** assessment and rapid decision regarding the place of refuge for a ship, including a description of environmental, economic and social factors and natural conditions.

In this occasion, the joint text changed marginally the article of the Parliament and it is easy to determine that the final provision is partially associated with the parliamentary second reading. The Conciliation Committee took a position as close as possible to the Parliament's position, even though with slight modifications. I coded, therefore, the provision as *EP2 partially adopted* because less than forty per cent of the Parliament's text was changed.

However, a lot of provisions entail substantive changes in the positions of the Parliament or of the Council, and their labelling was difficult. Take the following

example. Article 6(1) of the draft decision on AIDS prevention (COD/1994/0222) was subject to several modifications throughout legislative procedure.

The common position read:

Article 6(1) In the course of implementing this programme, cooperation with non-member countries and with international organizations *competent in the field of public health*, in particular the United Nations, the World Health Organization and the Council of Europe.

The Parliament at second reading deleted the italicized text above and added the bold text below:

Article 6(1) In the course of implementing this programme, cooperation with non-member countries and with international organizations *in particular* the United Nations, the World Health Organization, the Council of Europe, **and non-governmental organizations competent in the field of public health or particularly involved in the fight against AIDS and the prevention thereof.**

Finally, the joint text deleted the italicized text of the EP position, restated the Council text previously removed (underlined below) and added the bold text:

Article 6(1) In the course of implementing this programme, cooperation with non-member countries and with international organizations competent in the field of public health, **especially** the United Nations and in particular the World Health Organization, the Council of Europe and non-governmental organizations, competent in the field of public health or particularly involved in the fight against AIDS **and other communicable diseases** and the prevention thereof.

Another example highlights that to determine the provisions of the joint text in comparison with the two prior positions of the Council and the European Parliament was not an easy task.

Article 4(1) of the regulation on common rules for civil aviation security (COD/2005/0191) was substantially modified in the last stages of the legislative procedures. The Council's position stated:

Article 4(1) - The common basic standards for safeguarding civil aviation against acts of unlawful interference shall be as laid down in the Annex.

Then, the European Parliament at second reading added the text in bold:

Article 4(1) - The common basic standards for safeguarding civil aviation against acts of unlawful interference that **jeopardise its security** shall be as laid down in the Annex.

Finally, the joint text introduced changes, even though it maintained the amendment suggested by the European Parliament position, with a little modification, stressed in italics, as illustrated below.

Article 4(1) - The common basic standards for safeguarding civil aviation against acts of unlawful interference that jeopardise **the security of civil aviation** shall be as laid down in the Annex. **Additional common basic standards not foreseen at the entry into force of this Regulation should be added to the Annex in accordance with the procedure referred to in Article 251 of the Treaty.**

In this case, determining in which category of the classification scheme the provision is located appears difficult: did the joint text partially adopt the second reading of the Parliament (according to the category *Partially adopted*)? Or did it change what occurred in the Council and EP position, adding new text (according to the category *Partially changed* or *Largely changed*)? The parliamentary reading was not amended in the final text, neither its intent was totally changed, but neither the position of the Council was ignored. On the contrary, the joint text has introduced amendments for more than forty per cent of the entire text. For this reason I determined the provision vis-à-vis the wording of both the parliamentary and Council variant as *Largely changed*. Recital 27 of the common position of the decision for a multiannual programme on promotion of renewable energy sources (COD/1997/0370) provides another excellent example. The texts of the Council's and the Parliament's position were:

Recital 27 - *This Decision establishes a financial framework which should be the principal point of reference, within the meaning of point 1 of the Declaration by the European Parliament, the Council and the Commission*

of 6 March 1995 *for the budgetary authority for the purposes of the annual budgetary procedure; account should be taken of the fact that a new financial perspective will be negotiated during the course of the ALTENER programme;*

The italicized text was deleted by the joint text and the additional text in bold was added:

Recital 31 - This Decision lays down for the entire duration of the programme a financial framework constituting the principal point of reference, within the meaning of point **33 of the Interinstitutional Agreement between** the European Parliament, the Council and the Commission of 6 May **1999, on budgetary discipline and improvement of the budgetary procedure,** for the budgetary authority **during** the annual budgetary procedure;

In this situation, the joint text changed to a great extent the recital of the Council and the Parliament by deleting some parts and adding new ones, and I could not determine whether the Conciliation Committee took a position closer to either of the two institutions' position, since they had the same. I coded the joint text response as *Largely Changed* because more of the forty per cent of the two institutions' texts was changed.

I did not examine whether the joint text brought changes according to the content of either the institutions' position. As stated above, judgements on the degree of adoption may be quite subjective; coders may disagree about the substantive significance of the word meaning as well as the distinction between categories. The assessment of the degree of adoption does not get into the heart of the content question: the technicalities of some legislative texts are so complex that coders cannot understand completely the matter in question. I was therefore rather conservative in deciding whether a text was closer to the position of one chamber in order to ensure an acceptable degree of intercoder reliability. I also replicated the coding several times in order to reduce subjective judgment and to make the procedure the most transparent and replicable as possible. As a result, reliability and reproducibility go hand in hand: subjective measurement, particularly evident in hand-coding text analysis, can invalidate any attempts to replicate the results. Political issues, especially as treated in legislative texts,

may sometime be highly technical, so that it is difficult for researchers and coders to understand the content and to identify the exact classification scheme in order to allocate the text units to the predefined categories.

For each dossier, I then produced three values: h_{EP2} is the sum of the number of modifications that have been coded *EP2 adopted* or *EP2 partially adopted*, h_{CP} is the sum of the modifications coded *CP adopted* or *CP partially adopted*, h_U is the sum of the remaining modifications. For each dossier d , bargaining success is determined as follows:

$$Bargaining\ success_d = \begin{cases} CoM & \text{if } \max(h_{CP}, h_{EP2}, h_U) = h_{CP} \\ EP & \text{if } \max(h_{CP}, h_{EP2}, h_U) = h_{EP2} \\ undetermined & \text{if } \max(h_{CP}, h_{EP2}, h_U) = h_U \end{cases}$$

Success is assigned to the institution that managed to insert in the final document a relative majority of amendments that are identical or highly similar to its version of the text. Success cannot be determined if a relative majority of changes cannot be easily associated with the version of either the parliamentary reading or the common position. Table 4.8 illustrates the results of this exercise. Wordfish estimates coincide with the hand-coding estimates in nine out of eleven dossiers where we can easily determine the winning institution through the hand-coding procedure. Seven joint texts have more similar provisions to the Council common position than to the second reading of the Parliament. Nine dossiers were difficult to determine unequivocally, since many modifications largely or partially changed the Council's and the Parliament's documents. Take the example of the directive on resale right for the benefit of the author (COD/1996/0085). Several amendments were changed, both partially and largely, while a lot of provisions were newly inserted or deleted in the final text, causing large discrepancies between the joint text and the two prior positions.

Wordfish estimates based on five documents perform instead more poorly. Only six dossiers display the same outcome as the one produced through hand-coding.

Hand-coding and Wordfish based on three documents produce therefore similar estimates. Certainly, there is a group of dossiers where hand-coding is difficult but, in

these circumstances, it is better to rely on the more reliable and easily replicable Wordfish procedure.

Table 4.8: Validity analysis through hand-coding.

	Number of modifications						Bargaining success		
	EP adopted	EP partially adopted	CP adopted	CP partially adopted	Partially changed	Largely changed	New/ deleted	Hand-coding	Wordfish ¹
COD/2005/0239	4	15	28	1	6	5	11	CoM	CoM²
COD/2005/0191	5	6	67	3	11	7	7	CoM	CoM
COD/2004/0175	11	3	2	1	11	9	3	<i>undetermined</i>	<i>EP²</i>
COD/2003/0168	0	1	15	1	4	6	2	CoM	CoM
COD/2001/0257	8	4	2	0	9	1	1	EP	EP²
COD/1998/0336	0	0	10	1	5	6	4	<i>undetermined</i>	<i>EP</i>
COD/1998/0289	2	1	10	1	1	4	4	CoM	CoM²
COD/1998/0195	2	1	7	2	4	5	3	<i>undetermined</i>	<i>CoM²</i>
COD/1997/0370	0	2	3	0	1	4	2	<i>undetermined</i>	<i>CoM²</i>
COD/1997/0176	5	2	1	0	2	0	0	EP	EP²
COD/1997/0067	0	6	11	1	5	0	2	CoM	CoM
COD/1997/0146	3	2	4	0	6	0	2	<i>undetermined</i>	<i>CoM</i>
COD/1996/0085	4	14	25	1	23	14	16	<i>undetermined</i>	<i>EP</i>
COD/1995/0209	0	0	5	0	2	0	0	<i>CoM</i>	<i>EP</i>
COD/1995/0080	2	0	2	1	4	0	0	<i>undetermined</i>	<i>EP</i>
COD/1994/0222	4	3	7	0	7	1	3	<i>undetermined</i>	<i>CoM</i>
COD/1994/0135	1	8	11	0	3	1	0	CoM	CoM
COD/1993/0471	0	0	6	1	1	0	0	CoM	CoM
COD/1992/0426	4	0	0	0	2	2	0	<i>undetermined</i>	<i>CoM</i>
COD/1992/0415	2	2	2	1	0	0	0	<i>EP</i>	<i>CoM²</i>

¹ EP if *EP success* = 1, CoM otherwise. ² Wordfish estimate employing five documents differs from the three-document estimates

4.3.3. Comparison with expert-interviews estimates

Finally, I have compared our estimates with those derived from expert surveys conducted by König *et al.* (2007). Their analysis is the first systematic empirical research on the Conciliation Committee and aims at investigating the bargaining success of the legislative actors and the factors explaining such success. This study is based on 54 dossiers that reached conciliation between 1999 and 2002 and used a standardized questionnaire to interview rapporteurs or parliamentary administrative advisers and conciliation secretariat officers. They were asked to identify the contested issues, the location of actors' positions and distances to the status quo and the outcome. Interviewers identify that the dossiers have more than one policy issue on which negotiators bargain in conciliation. Then, the scholars cross-checked the validity of these issues with document analysis using the activity report and the legislative observatory (OEIL) of the Parliament. These dossiers comprise 74 issues on which there was disagreement between the two chambers. If we consider issues only, König *et al.* (2007) find that the Parliament has succeeded in 56 per cent of times, while the Council only in 26 per cent. As we shall see in Chapter 5, my findings show that the Council is successful in more than sixty per cent of dossiers that reached conciliation from the entry into force of the Treaty of Maastricht to February 2012. Even though my analysis collect a broader number of cases than König *et al.*'s, even studying the overlapping dossiers results are different. My Wordfish estimates, indeed, for these 54 dossiers indicate that the Parliament is successful in only 39 per cent of the cases. However, in order to validate the findings of the expert survey with the Wordfish estimates, I select only dossiers where interviewers identified only one conflicting issue. In this sample the Parliament is slightly less successful: about 38 per cent of times.

Although König *et al.* tell us another story about conciliation bargaining and the successful actor within the Conciliation Committee, there are some doubts on the validity of such work. They have cross-validated their estimates with the data available from the Decision-making process of the European Union (DEU) project (Thomson *et al.* 2006), but the two datasets overlap only on seven issues, from five dossiers. Wordfish estimates diverge from König *et al.*' (2007) results in two of these conciliation

dossiers: the directive on civil liability for motor insurance – COD/1997/264 – and the directive on takeoverbids – COD/1995/341. In both draft directives König *et al.* (2007) find the Parliament was successful, while Wordfish estimates that the Council provisions are closer to the joint text than the European Parliament's positions.

Conclusion

I devoted the whole Chapter to the analysis of Wordfish as valid and reliable measure of estimating institutions' positions from official legislative documents. Producing usable Wordfish data is a long and complex process which entails accurate attention to the type of documents I shall use for the analysis. Several steps occurred to polish the data: from correcting mistyped and misspelled words to deleting stopwords and highly frequent words that might bias the ultimate analysis. Wordfish, indeed, relies on word frequencies in the text to estimate policy positions.

Because Wordfish was not tailored to extract policy position from legislative documents, I performed a validation exercise comparing the estimates with three different techniques and samples. First, differences between the three- and five-document estimates are pretty relevant and the determinants of such differences were investigated. Actually, despite having inserted additional variables, which could have explained changes throughout the codecision procedure, unanimity and rejection of parliamentary amendments from the Commission are the only factors which explain such differences, but doubts on the validity of the measure remain. Second, hand-coding analysis conducted upon a twenty-dossier sample produces similar estimates to Wordfish. These results entrust that it is better to rely on more reliable and easily replicable computer-assisted technique, as Wordfish does. Third, I compare Wordfish estimates with those produced by the expert survey of König *et al.* (2007). The findings are not satisfying: while the former indicates the Council, the latter finds the Parliament as the most successful actors in conciliation bargaining. But, I am concerned about how reliable are König *et al.*'s data, since few dossiers were cross-checked with the Decision-making of the European Union dataset.

In conclusion, the results from the comparison with the three alternative procedures indicate that my estimates based on three documents are valid and shall be reliable data to conduct the quantitative analysis upon the determinants of the bargaining success in the Conciliation Committee.

5. Bargaining success in conciliation

This Chapter examines the extent of the Conciliation Committee's decision making. It introduces the data and the variables I employ as well as it inspects the possible determinants of the Parliament's bargaining success in conciliation. More precisely, the Chapter contains two broad sections. In the first section, I discuss the features of the dossiers having produced a joint text, namely, the legislative terms under which it was discussed, the type of measures, the policy area, the member state holding the Presidency at its adoption in the Conciliation Committee and the party membership of the rapporteur. Then, I provide the descriptive statistics on the variable of bargaining success, analysing Wordfish estimates of the official documents, and the explanatory variables, derived from the hypotheses in Chapter 3. In the second section, I examine whether these explanatory factors show statistical relationship with the Parliament's bargaining success, by providing the results of the inferential analysis.

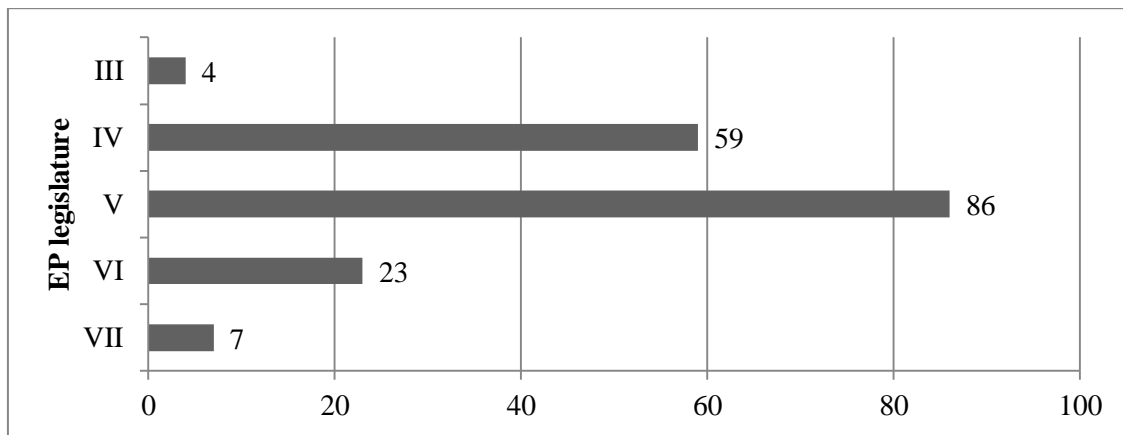
5.1. Conciliation Committee dossiers

The analysis on the Conciliation Committee recognizes that this dispute settlement body has been used only occasionally in the last two legislative terms. Figure 5.1 illustrates the distribution of conciliation dossiers for each legislature.

During the fourth and fifth parliamentary term, indeed, the Conciliation Committee has been employed once every five Commission's proposals and almost half of the joint texts were concluded in the fifth legislature, indicating significant inter-institutional conflict. In the sixth and seventh term, on the contrary, the Conciliation Committee was used in order to ease up tensions on divisive and salient dossiers, not solved by early agreements. Of the four dossiers, where the Conciliation Committee was unable to

reach an agreement, two were bargained in the fourth legislature and one each in the sixth and seventh.

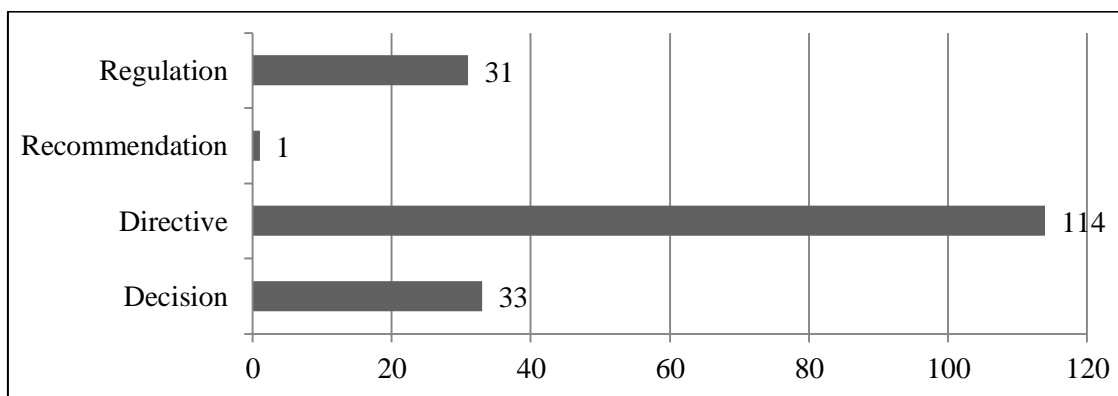
Figure 5.1. Codecision files per parliamentary term



Conciliation dossiers vary in the legislative instruments, as well. As

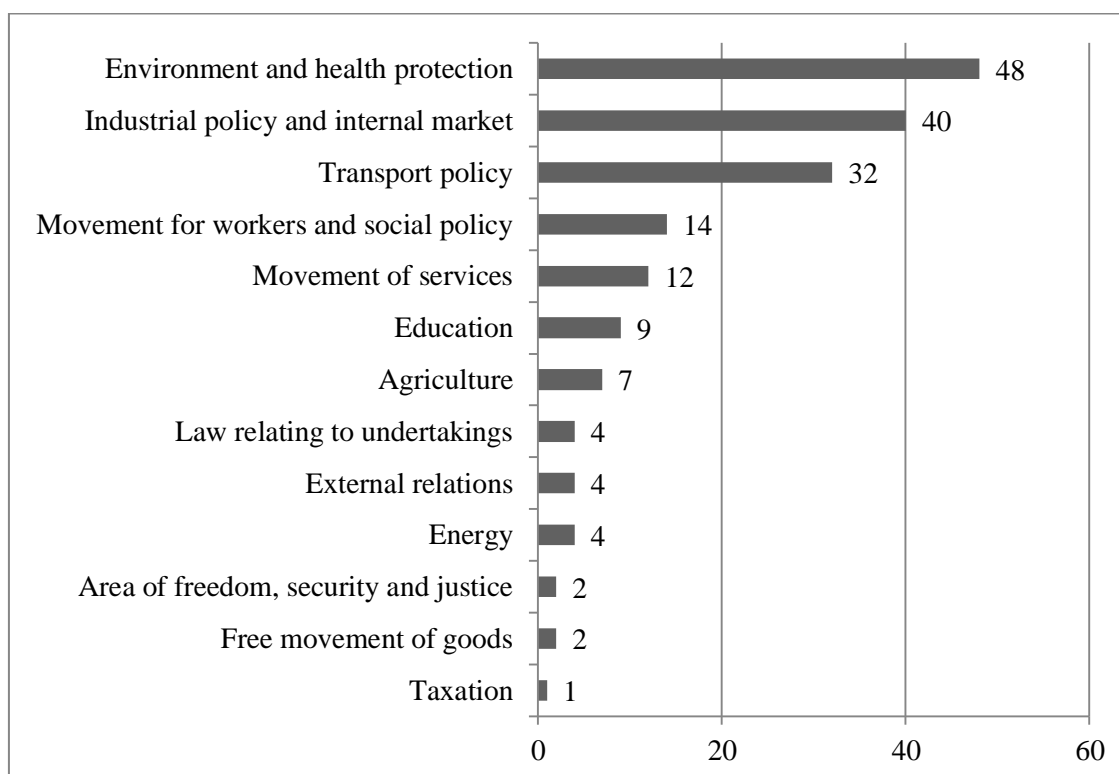
Figure 5.2 shows, directives are involved more than the half of the times (63.7 per cent), followed by decisions (18.44 per cent) and regulations (17.32 per cent). Interestingly, there is a shift in the instrument selected. Decisions were mostly used in the fourth and fifth legislatures (20 and 12 decisions were adopted at conciliation, respectively), while legislators have only adopted regulations as joint texts since the fifth parliamentary term.

Figure 5.2: Legislative acts of the dossiers



Another feature of the legislative dossiers regards the policy area of the act (see Figure 5.3). A first group of dossiers concern the most divisive policy issues: environment and health protection; internal market; and transport policy. The Conciliation Committee is mostly called to settle differences concerning environment (pollution, conservation of wild flora and fauna, use of natural resources), consumers and health protection, which represents more than 26 per cent of all dossiers. Then, more than one fifth of dossiers are acts on industrial policy as well as the single market and the movement of goods, persons and services.

Figure 5.3: Policy areas of codecision files



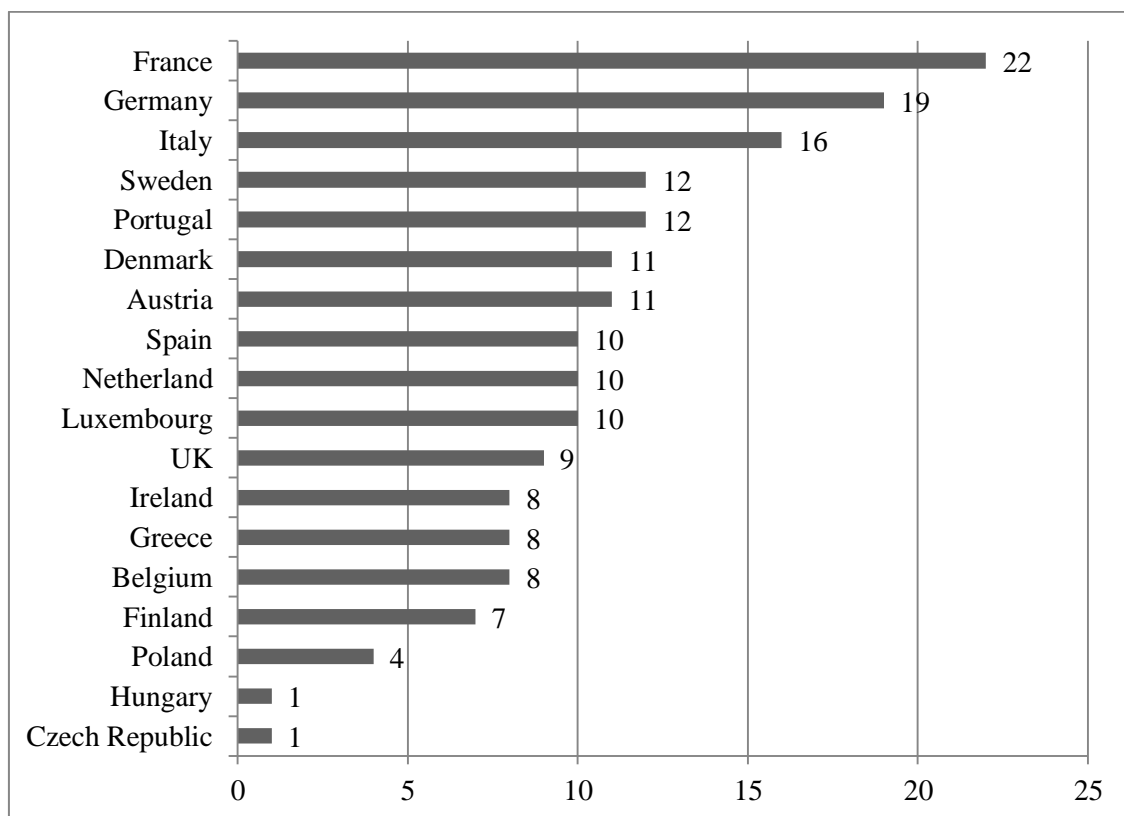
Finally, shipping, inland and air transport is the third most conflicting issue: almost 18 per cent of dossiers. If these three policy issues are summed up, the number of the measures consists of almost two thirds of the conciliation dossiers, represented in all the parliamentary legislatures. Second, issues on free movement for workers, of services, education and agriculture encompass one fourth of the dossiers bargained mainly during

the fifth legislature. A bunch of policy issues represents the third group of conciliation dossiers. They have to do especially with relations with third countries, energy and energy supply, intellectual and company law (each 2.23 per cent) as well as the European Union borders, customs, cooperation in judicial and police matters or free movement of goods (1,12 per cent).

Dossiers were concluded under different Presidencies of the Council. Given that member states joined the European Union at different years, some countries have held the Presidency in conciliation more frequently than others. Of the six founding countries, France, Germany and Italy have held the Presidency of the Council less than one third of all the dossiers reached at Conciliation. On the other hand, Poland, the Czech Republic and Hungary, which joined the European Union with the 2004 Enlargement, presided over few conciliation meetings (only 3.3 per cent).

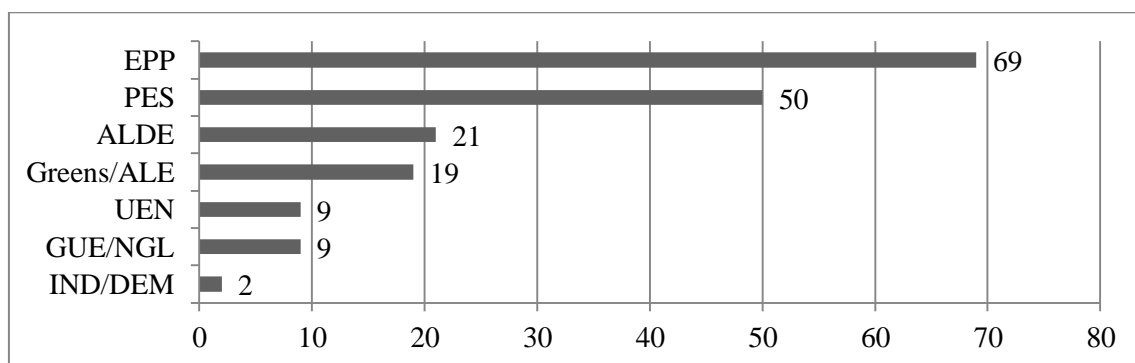
Figure 5.4 shows under which Presidency dossiers reached conciliation.

Figure 5.4: Codecision files per country holding the Presidency



The main characteristic of the other key negotiator – the rapporteur – is his party membership. Rapporteurs coming from large party group are more involved in conciliation dossiers. As Figure 5.5 shows, undoubtedly Socialists and EPP members were responsible of the majority of the measures, 38.5 and 28 per cent respectively. The remaining 33 per cent of dossiers is split by the Liberals and the Greens, as a first step, and then by deputies of the extreme left and of the Union for Europe of the Nations (UEN).

Figure 5.5: Codecision files per party group of the rapporteur



This introductory section offers an overview on the type of dossiers that reach the conciliation stage. It highlights that codecision files deal with several policy issues in cross-temporal dynamics and through different instruments, bargained by a large variety of players. As these differences among the legislators and the legislative and temporal characteristics of the dossiers may be important to explain when the Parliament or the Council, are successful in the Conciliation Committee, the next sections will explain the operationalization of the variables, starting from the distinction between the dependent and independent variables.

5.2. Bargaining success

The dependent variable concerns the measure of the bargaining success in a legislative dossier and it synthetizes the extent to which one institution wins in conciliation over

the other. Since the bargaining outcome might be in favour of either the Council or the Parliament, I use the ω estimates of documents generated by Wordfish in order to produce a proxy of bargaining success.

From Figure 5.6 to Figure 5.9 I plot the Wordfish document estimates, where the vertical axis indicates the underlying dimension and the horizontal axis distinguishes the conciliation dossiers. They illustrate each document's position for each legislative dossier reached at Conciliation, according to the parliamentary term under which the joint text was agreed upon. The results of the analysis are different by Parliament's legislatures. In each figure the position of the Conciliation Committee's tend to be closer to the lower end of the document scale than the Council's and the European Parliament's documents, and closer to the Council's position than to the Parliament. However, differences occur throughout the legislative terms. Under the 3rd and 4th legislatures, the Parliament and the Conciliation Committee have opposite ω estimates. In the following legislatures, instead, the joint text is more similar to the European Parliament's and the Council's positions than in the first years of codecision.

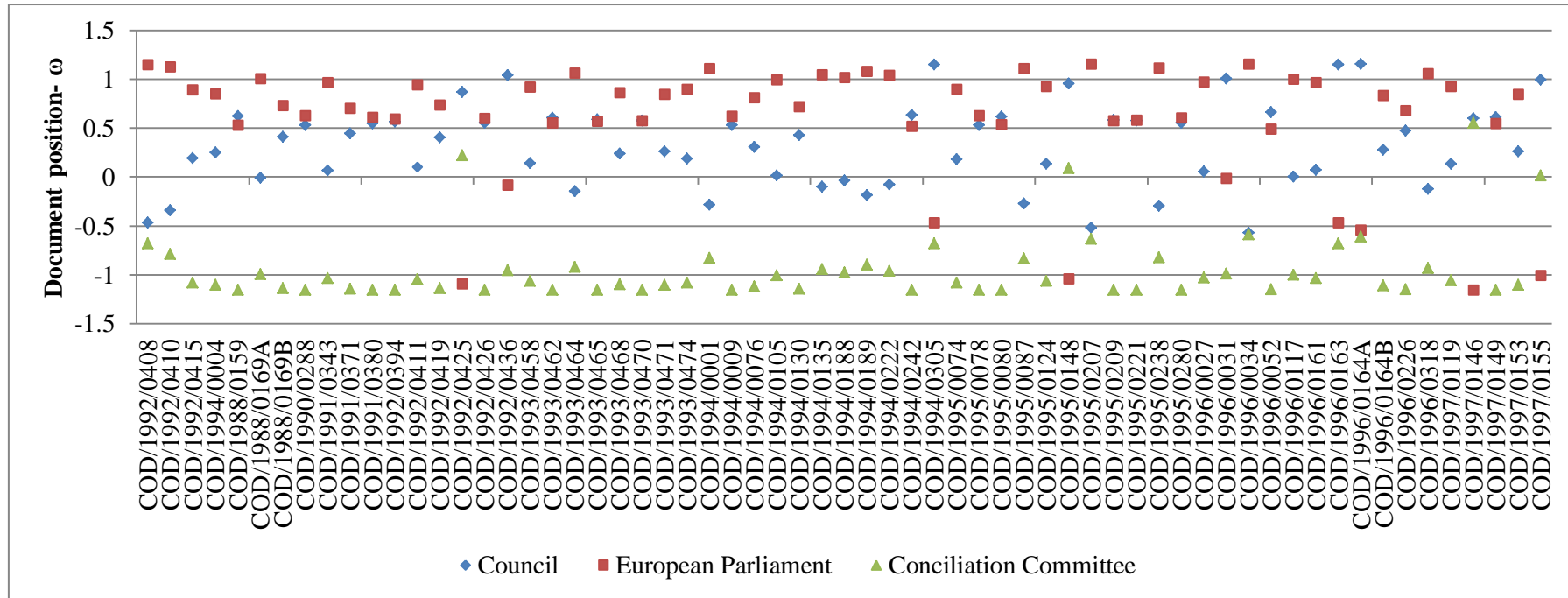
Figure 5.6: ω estimates of conciliation documents (3rd and 4th term)

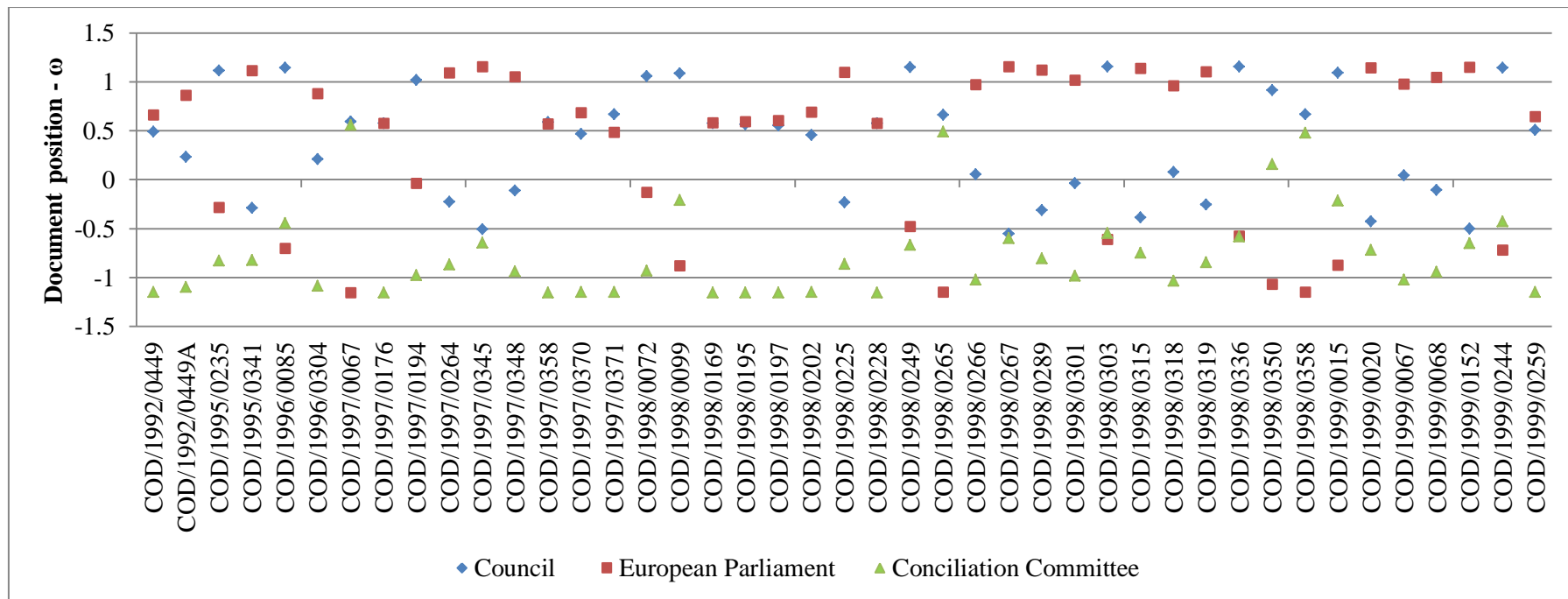
Figure 5.7: ω estimates of conciliation documents (5th term, first 46 files)

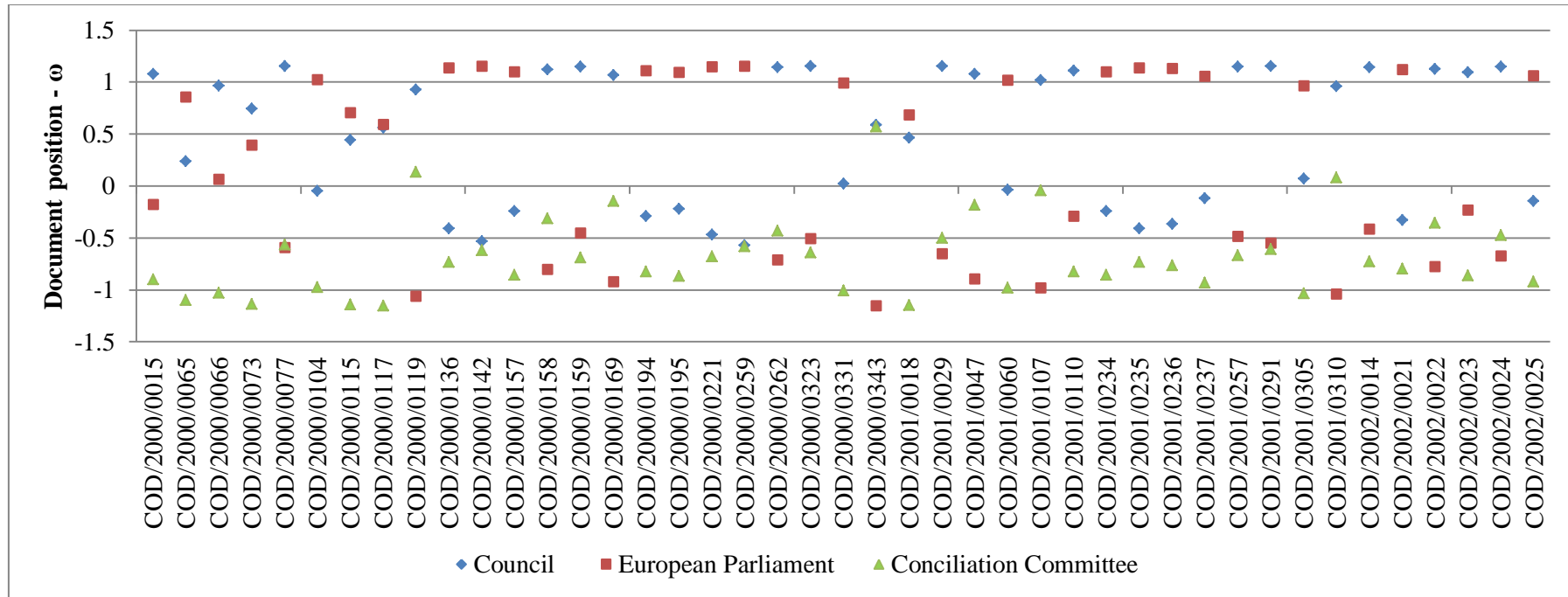
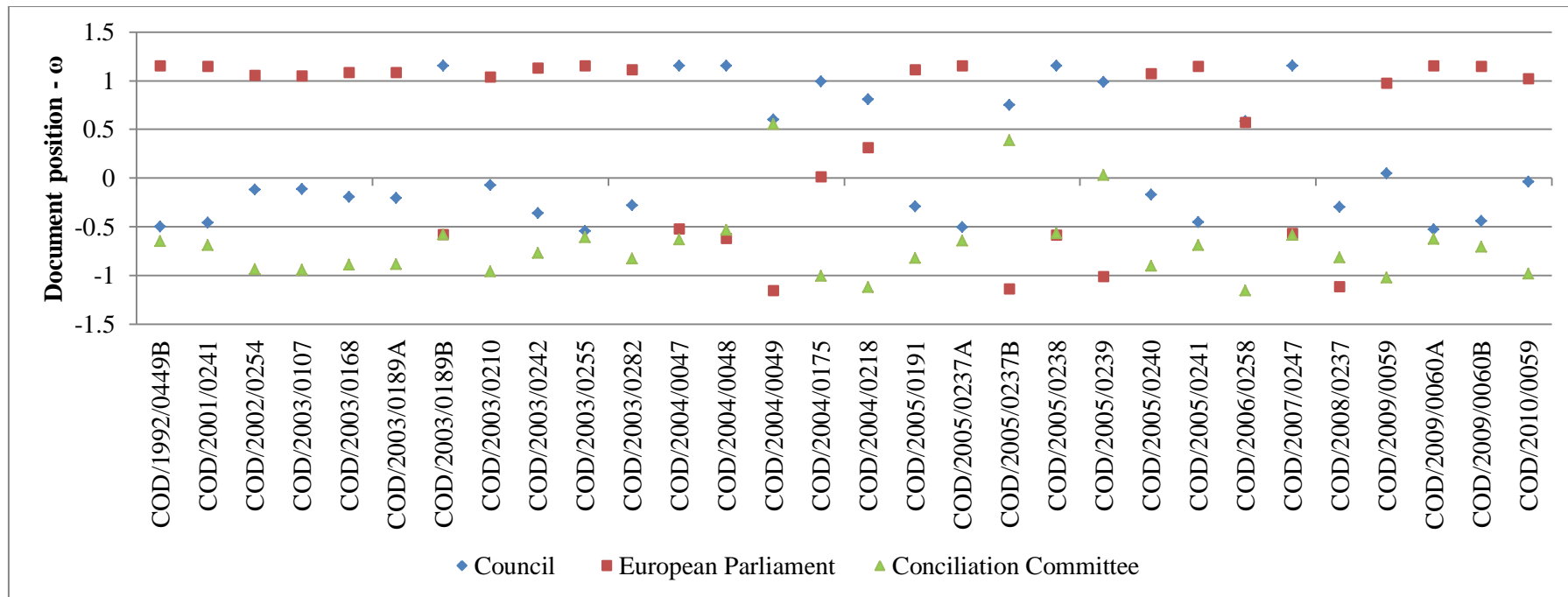
Figure 5.8: ω estimates of conciliation documents (5th term, last 46 files).

Figure 5.9: ω estimates of conciliation documents (6th and 7th term).

The estimates of the document i 's position might be better analyzed through three indices, indicating the Conciliation Committee's compromising or revolutionary locations. Compromise positions of the Conciliation Committee happen when the joint text is situated in between the European Parliament's and the Council's positions, see the shaded area in Figure 5.10. In this sense, because of the bicameral nature of the Conciliation Committee, most of the Conciliation Committee's estimates should be compromise positions. On the contrary the Conciliation Committee may assume positions that are closer to one of the two institutions. The Conciliation Committee should be placed in the two shaded areas illustrated in Figure 5.11, on the right of the European Parliament and on the left of the Council.

The third index measures revolutionary positions of the Conciliation Committee. Positions are defined as revolutionary when the distance between the Conciliation Committee and both the institutions is larger than the distance between the Council and the Parliament. The Conciliation Committee assumes revolutionary positions when it is placed in the shaded areas in Figure 5.12. In these cases, the final joint text brings so many changes and amendments that it is difficult to determine the closeness both to one of the two institutions' positions and to either institution.

Figure 5.10: The compromise position of the Conciliation Committee



Figure 5.11: The position closer to one of the two institutions



Figure 5.12: The revolutionary position of the Conciliation Committee



As Table 5.1 shows, the joint text has managed to be closer to either institution in almost half of all the files reaching the conciliation stage. Revolutionary positions represent more than one third of dossiers and, surprisingly, compromise positions of the joint text occur in less than one fifth of the times. Anyway, a learning process of how to manage the rope of negotiations within the Conciliation Committee seems at stake here: revolutionary positions happened more under codecision I (almost 60 per cent of the revolutionary dossiers) than under the Treaty of Amsterdam, while almost 90% of the compromise dossiers were bargained under codecision II.

Table 5.1: Incidence of Conciliation's positions

Positions of the Conciliation		Legislative term		
		III and IV	V	VI and VII
<i>Compromise position</i>	31 17.32%	4 6.35%	21 24.42%	6 20.00%
<i>Revolutionary position</i>	68 37.99%	40 63.49%	24 27.91%	4 13.33%
<i>Position closer to either institutions</i>	80 44.69%	19 30.16%	41 47.67%	20 66.67%
Total	179 100%	63 100%	86 100%	30 100%

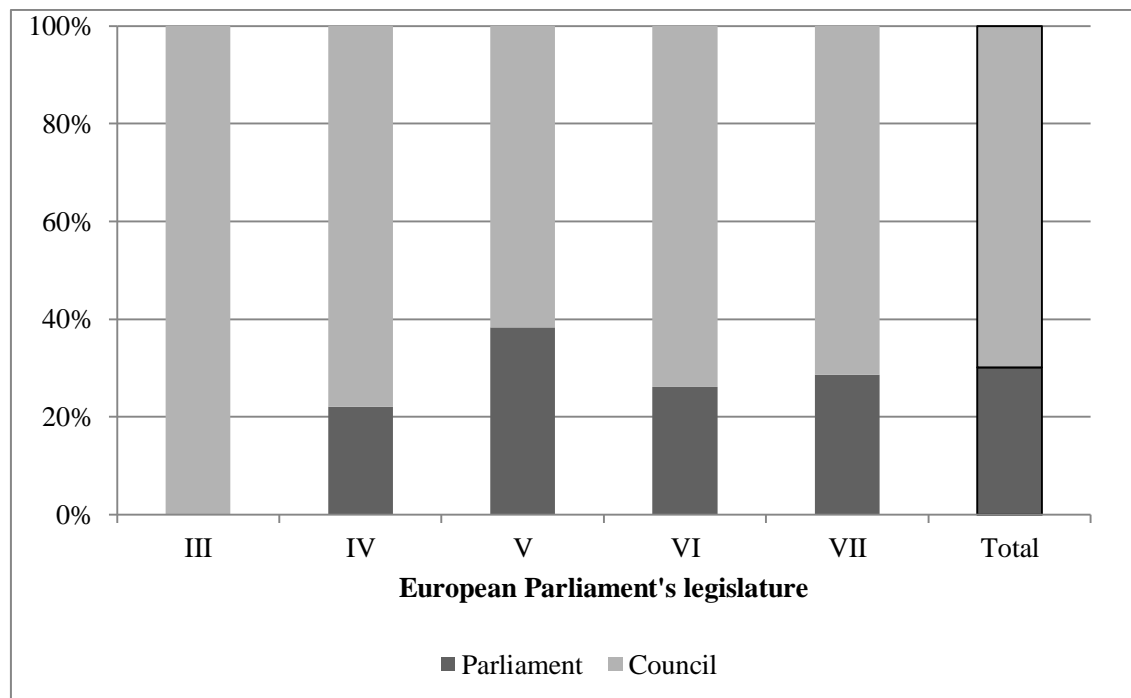
As already mentioned in Chapter 4, the dependent variable – *EP success* – is dichotomous and takes the perspective of the Parliament. The EP bargaining success in a given dossier d is the following one:

$$EP\ success_d = \begin{cases} 1 & \text{if } |\omega_{EP2} - \omega_{JT}| < |\omega_{CP} - \omega_{JT}| \\ 0 & \text{if } |\omega_{EP2} - \omega_{JT}| > |\omega_{CP} - \omega_{JT}| \end{cases}$$

EP success takes the value of 1 if the absolute difference between the ω estimates for the second parliamentary reading and the joint text is smaller than the difference between the estimates for the Council common position and the joint text. As I have

extensively illustrated in Chapter 4, this bargaining success variable does not deal with the content of the legislation, but it estimates simply the relative word usage of documents in order to provide information of the legislators' positions in the bargaining space. Figure 5.13 shows that the Council is more successful vis-à-vis the Parliament in conciliation bargaining. From an overall perspective, the estimate of the joint text is closer to the second reading position of the Parliament in only 54 of the 179 dossiers. In each legislative term, the joint text has been on average more similar to the common position than to the second parliamentary reading. The best performance for the Parliament was during the fifth term where 33 out of the 86 dossiers reaching conciliation produced joint texts that were more similar to its reading.

Figure 5.13: Parliamentary success, by legislative term and in total.



EP success can be alternatively operationalized as $(\omega_{CP} - \omega_{JT})^2 - (\omega_{EP2} - \omega_{JT})^2$. Instead of being dichotomous, this alternative operationalization defines an interval variable and takes increasing positive values with greater success of the Parliament. Nevertheless, this estimate presents drawbacks. Let consider two values of ω_{JT} , closer to, but equidistant from ω_{EP2} , and assume that the first one falls outside the

$[\omega_{CP}, \omega_{EP2}]$ range (this has occurred in my data, ω should not be interpreted as distributed along a Euclidean policy dimension). Because $(\omega_{CP} - \omega_{JT})^2$ is larger, this measure produces a higher degree of EP success in the first case even though the two ω_{JT} are equidistant from ω_{EP2} .

For instance, assume $\omega_{CP} = -1$ and $\omega_{EP2} = 1$. Take three different estimates of the

joint text, $\omega_{JT} = \begin{cases} 0.5 \\ -0.5 \\ 1 \end{cases}$. Consequently, *EP success* measured dichotomously will take

the following values: $EP\ success = \begin{cases} 1 \\ 0 \\ 1 \end{cases}$. Therefore, only in the second case the Council

has closer position to the joint text, while the other two cases are treated in the same way. On the contrary, *EP success* measured as an interval variable will take the

following values: $EP\ success = \begin{cases} 2 \\ -2 \\ 20 \end{cases}$. In other words, the continuous variable has more

similar values in the first two cases than the third one, although the “winning” legislators are different. This operationalization, indeed, is biased in favour of revolutionary positions of the joint text, while it treats equally compromise positions, without distinguishing the bargaining winner. As a result, I have decided to keep only the dichotomous variant of bargaining success as the key dependent variable of my quantitative analysis.

5.3. Determinants of parliamentary success

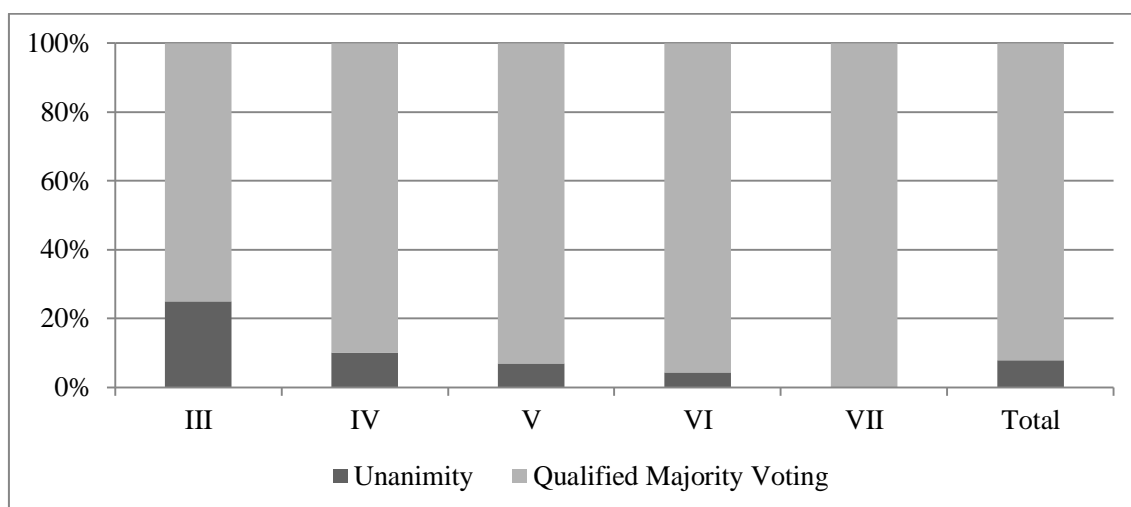
This section highlights the operationalization and the descriptive statistics of the determinant factors of parliamentary success at conciliation. First, it focuses on the variables expected to affect the bargaining success according to the literature and the hypotheses previously investigated in Chapter 3: the institutional features, the factors concerning veto threats and reputation, and implementation. Then the section explores the control variables, that may affect the legislative decision-making process.

5.3.1. Institutions

Three institutional features should affect the parliamentary bargaining success: the Council voting prescribed by the Treaty, the version of codecision and the size of the assembly. As shown in Chapter 2, the two delegations in conciliation structurally differ to each other and may affect both negotiations *between* delegations and negotiations *within* each institution. Although formally the Council is likely to obtain more success, some institutional features are likely to increase the Parliament's bargaining power. Qualified majority voting for Council's decisions, instead of unanimity, may positively affect the parliamentary success, because the core of the Conciliation Committee is larger. The variable *Unanimity* takes the value of one when the Treaty legal basis upon which the act is discussed prescribes unanimous voting, otherwise it takes the value of zero. Conciliation dossiers were voted by Council under unanimity in only 14 cases (7.82 per cent), also due to the subsequent revision of Amsterdam, Nice and Lisbon Treaties on the procedural voting. More and more policy issues, indeed, have been turned to qualified majority voting and actually under the Lisbon Treaty no issue prescribe unanimity in the Council. The Council, indeed, has voted an even diminishing share of dossiers under unanimity, as Figure 5.14 shows.

Only one of the 14 dossiers where the Council has voted under unanimity is successful for the Parliament and 67 per cent of the acts negotiated with qualified majority voting has successfully consolidated the Council's bargaining position.

Figure 5.14: Voting in the Council, by legislative term and in total



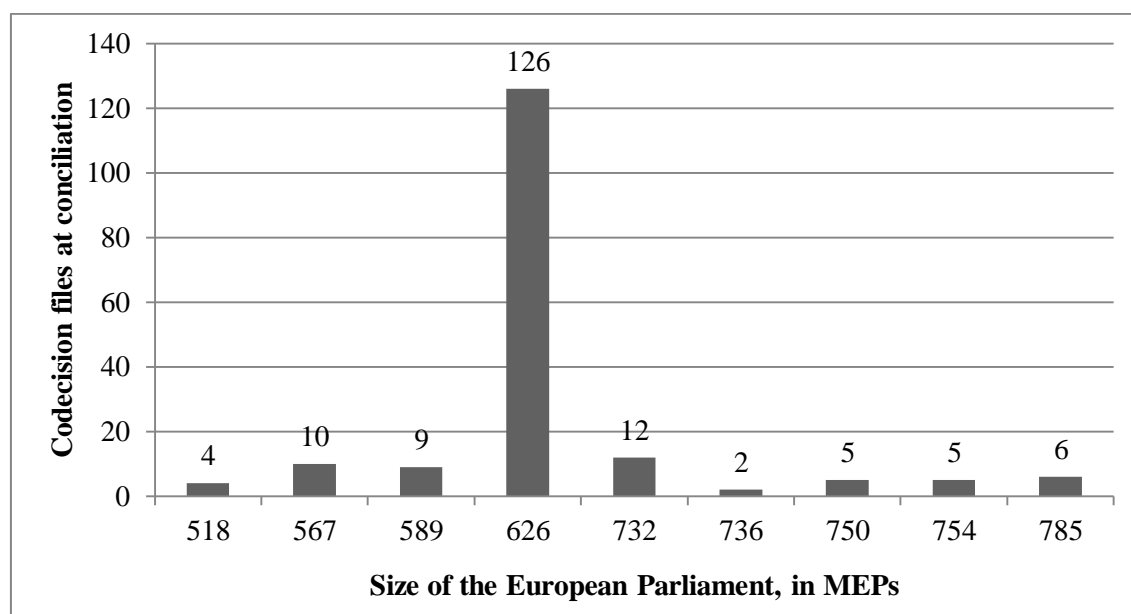
The other relevant procedural change was the substantive modification of the conciliation end by the second version of codecision. Reform of the codecision introduced by the Amsterdam Treaty may have strengthened the Parliament, because under Maastricht provision the Council could make a final take-it-or-leave-it offer after the failure of the conciliation negotiations (Garrett and Tsebelis 1996). *Codecision II* takes the value of one if the joint text has been negotiated after 1 May 1999.

Although the first version of codecision was into force for a limited period of time – from 1992 to 1999 – the dossiers reached the conciliation stage are substantial, 63 (35.20 per cent of the 179 dossiers). The impact of this institutional feature should be further analysed, since the descriptive statistics may encourage biased outcomes in favour of the Council under the Treaty of Maastricht. There is, indeed, a substantial reduction of dossiers successfully concluded for the Council in the first version of codecision (almost 80 per cent), compared to the second version (65 per cent).

Finally, larger size of the assembly should work against the Parliament (Baron and Ferejohn 1989), because it would increase the proposal power of the parliamentary delegation, which become less constrained in the bargaining vis-à-vis the Council. The feature is relevant, as new member states have been joining the European Union, the Parliament has enlarged the number of deputies. I include the variable *MEPs*, measuring the size of parliamentary membership at the time of the adoption of the joint text by the

committee. Figure 5.15 illustrates the distribution of dossiers reached the conciliation stage as the size of assembly increases. As Austria, Finland and Sweden joined the EU in the 1995 Enlargement, 626 Members of the European Parliament voted 70 per cent of codecision files. After the last enlargement, that has increased the size of the assembly, the Conciliation Committee has dealt with almost 17 per cent of the dossiers.

Figure 5.15: Share of codecision files per size of the parliamentary assembly



5.3.2. Uncertainty, veto threats and reputation

As illustrated in Chapter 3, asymmetric uncertainty is likely to affect the conciliation bargaining outcomes. Some actors, as the rapporteur and the President of the Council, may appeal on incomplete information in order to extract more concessions from the other chamber. In particular, rapporteurs coming from larger party group or in a position of leadership within the Parliament are expected to service better the assembly. They are more credible to Council when they issue veto threat from the plenary. Therefore, large party or leader rapporteurs are more successful to extract concession from the Council. The existing literature on EU politics relies on preference-based explanations (Costello and Thomson 2011) or on the Schelling's paradox of weakness (König et al. 2007) to offer alternative causal mechanism, as largely explained in Chapter 3.

The variable *Large party rapporteur* measures the party membership and takes the value of one if the rapporteur is from either the European People's Party (EPP) or the Party of European Socialists (PES)²⁶. Rapporteurs coming from the two largest party groups deal with 67 per cent of conciliation dossiers. In each legislative term, EPP and PES's rapporteurs are assigned to the largest amount of reports, with the exception of the sixth legislature, when smaller parties' rapporteurs presented the majority of dossiers. Reasonably, most of these latter dossiers were discussed in the committee for Transport and Tourism chaired by the liberal Paolo Costa. Under his chairmanship seven out of twelve dossiers were appointed to rapporteurs coming from smaller parties, especially from the ALDE and the GUE group.

Following Costello and Thomson's (2011) measurement, I code the variable *Leader rapporteur* as one if the rapporteur held a leadership position, namely whether she is either (vice-)President of the party or of the European Parliament, committee (vice-)Chairperson at the time of the adoption of the joint text. Most of the dossiers were tracked by rapporteurs not in a leadership position (74 per cent of cases), both from an overall overview and in each legislative term.

In addition, rapporteurs may come from parties represented in the Council. Under this circumstance, though, the rapporteur may instead be less effective in extracting concessions, because country congruence between negotiators reduces the level of uncertainty and, consequently, the Parliament's favourable condition at conciliation (Rasmussen 2011). The variable *Government rapporteur* aims at testing the influence of rapporteurs from national parties represented in the Council. The variable is dichotomous: it takes the value of one if the rapporteur belongs to a national party that is in government at the time of adoption of the joint text. Since there were mostly coalition governments, all the political groups forming the coalition were taken into account. The reason to look at the entire composition of the coalition government, rather than at the biggest party, lies on the fact that most of the negotiations at the conciliation phase are conducted at COREPER's level and not by ministries or deputy ministries. The political line adopted in the Conciliation regards that of the government as a whole.

²⁶ In the 7th parliamentary term the Socialists and Democrats group substituted the Party of European Socialists, but in my analysis I refer indistinctively to PES.

In the case of non-partisan governments, as the case of Italy from January 1995 to May 1996, no partisan allegiance between the Italian rapporteurs and government existed. Nevertheless, only 26 per cent of dossiers were conducted by rapporteurs represented in the Council.

The Council's President is equally involved in belief manipulation about parliamentary reputation. When a Council President comes from a newer member state, she may be more easily manipulated about the counterpart's type, to be either an accommodating or a recalcitrant Parliament, and she is not completely aware about the rope of negotiations. The variable *President state seniority* is operationalized as the natural logarithm of the number of completed years the country of the President has been an EU member at the time of adoption of the joint text, because it operationalizes the learning curve of the member state.

Even on the Parliament's side, reputational incentives may work. The reputational incentives as discussed by McCarty (1997) are more valuable at the beginning of the term rather than at the end. However, electoral cycle may have an opposite effect. Election-minded politicians are more likely to pander their electorate at the end of their mandate and they may be more constrained in the bargaining vis-à-vis the Council. Since electoral cycle matters, I measure the variable *Term length* as the number of completed months between the beginning of the parliamentary term and the adoption of the joint text. The variable should be negatively associated with success if these incentives are more powerful at the beginning of term, vice-versa if politicians are concerned about re-election.

5.3.3. Implementation

In Chapter 3 I highlighted expectations about implementation of a measure. Two hypotheses were derived. First, conciliation bargaining outcome may be affected by what politicians expect the measures to produce on their constituencies. In other words, re-election minded politicians are concerned about implementation and the influence of the Commission throughout the decision-making is important in determining the Parliament's success at conciliation. The Commission, indeed, may formally influence

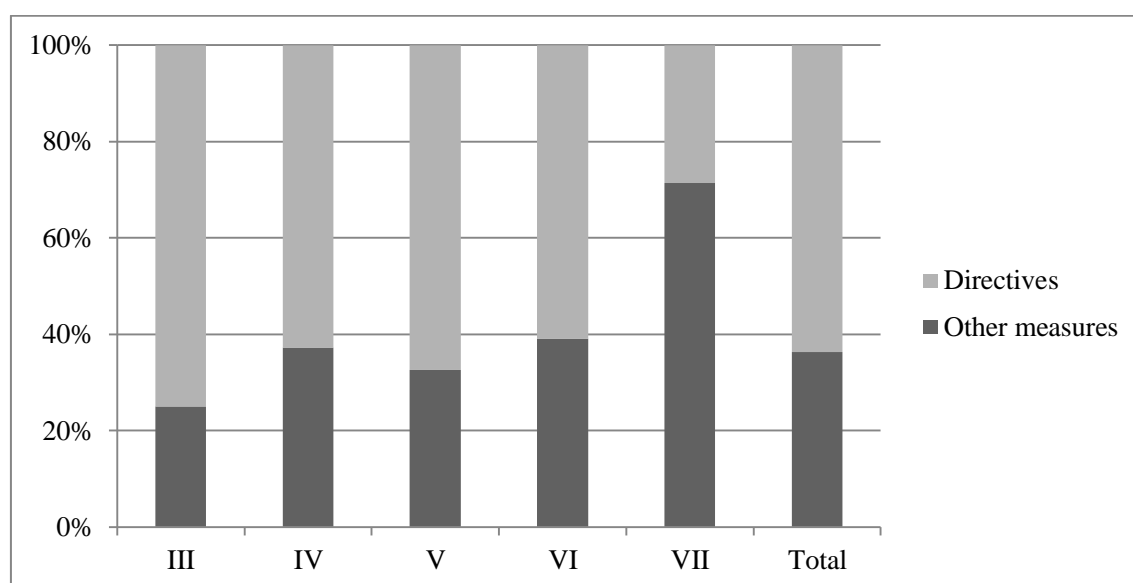
the final legislation, by accepting or rejecting parliamentary amendments. The Council, conversely, needs unanimity to overcome the Commission's opinion.

Commonly, scholars use expert interviews to infer the role of the Commission in determining legislative outcomes. For instance, König *et al.* (2007) collect information on the Commission's support across 74 issues between 1999 and 2002, based on interviews with MEPs and Parliament's officials. The method does not seem suitable to measure the Commission's preferences for all the dossiers at conciliation. It does not allow examining each conciliation dossier but only salient and relevant issues for some files. Therefore, in the present analysis I employ a different method to estimate the Commission's orientation in conciliation. First and second readings of the Parliament, indeed, are subject to Commission's opinion, which may accept or reject them. The influence of the Commission in conciliation is measured by the share of parliamentary amendments that are fully rejected by this institution – *Commission rejection*.

Second, national administrations and the Commission concur to the implementation of measures, in different way. As explained in Chapter 3, oversight on implementation may occur through ex-ante and ex-post mechanisms, according to the legislative instruments. Where national administrations are the main implementer, the Parliament and the Commission may issue tough proposals, because they rely on legislative oversight rather than ex-post controls (Franchino 2007). The opposite occurs when the Commission is the main implementer.

Since governments are more involved in implementation than the Commission in case of directives, I use the indicator *Directive*. It takes the value of one whether the instrument is a directive, while it takes the value of zero in the other cases, mainly Regulations and Decisions. According to this operationalization, 63.7 per cent of proposals at conciliation are directives, while the other types of instrument are the remaining 36.3 per cent, as illustrated by Figure 5.16. The only legislative term when the largest amount of other measures occurs is the last one. In the seventh term, indeed, five out of seven dossiers are regulations.

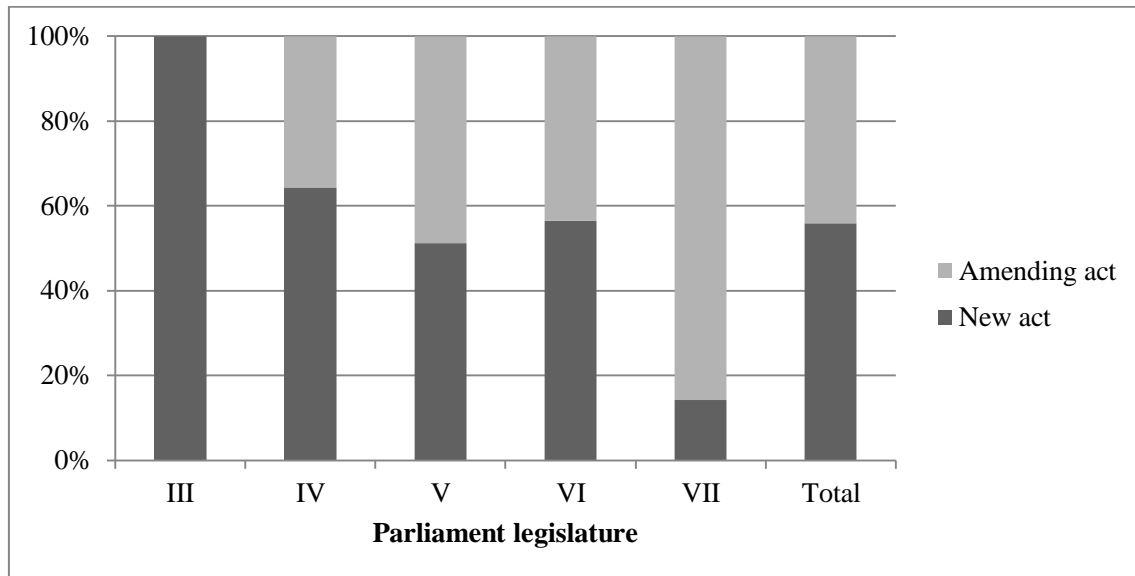
Figure 5.16: Share of directives, by legislative term and in total



5.3.4. New laws and package laws

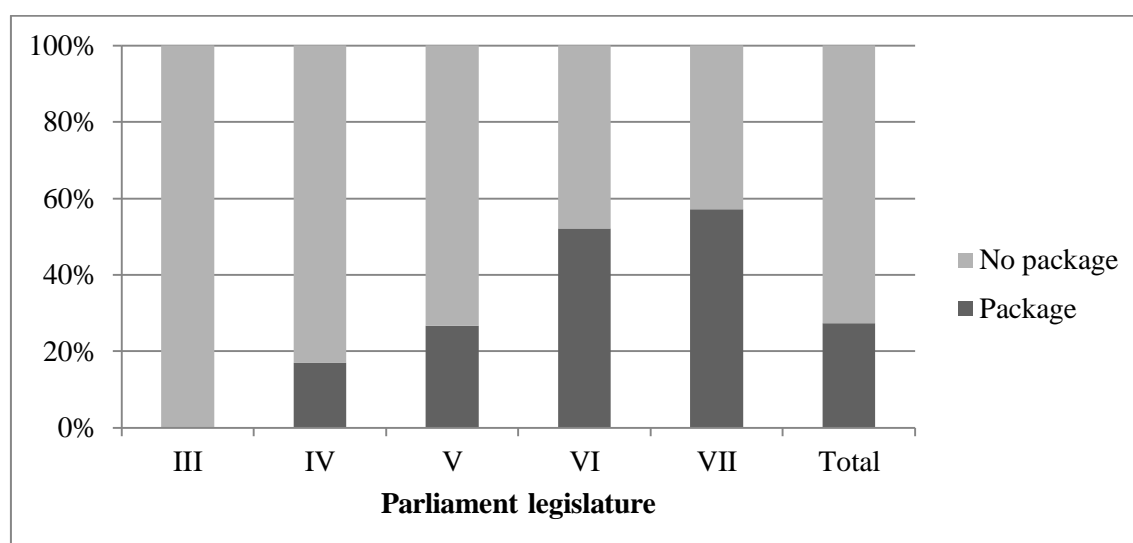
Finally, other factors, relating to the type of measures under bargaining, may affect the outcome at the conciliation stage. As extensively argued in Chapter 2, disagreement value negotiators attach to the existing situation would drive the bargaining. To some extent, negotiating failure is the result of high disagreement value. However, when a new, rather than an amending law, is on the negotiating table, the European Parliament may be in a disadvantageous position vis-à-vis the Council. The reason lies on the fact that, while national government would lose the benefits of EU-wide harmonization but their regulatory capacity would be unaltered, the assembly would be left without any EU law regulating the issue. Therefore, dossier providing a new legislation is a proxy of the disagreement value the actors attach to the dossier. I include the variable *New act*, which takes the value of one if the measure is not amending prior legislation. Figure 5.17 shows that, with the exception of the seventh legislature, new acts constitute the majority of conciliation dossiers.

Figure 5.17: Share of new acts, by legislative term and in total.



Measures may be part of the same legislative package and are likely to share common features, i.e. the same Commission's proposal, the same responsible EP committee, the same policy issue. Deals within the Council across measures of the same package could make this institution less amenable to compromise and thus less prone to deliver concessions to the Parliament. To control for this aspect I insert a variable, *Package*, that takes the value of one if dossiers either specifically mentions that are part of a package or have the same date of adoption of the joint text and same responsible parliamentary committee. Since the fourth legislative term, the cases of conciliation dossiers included in packages have significantly increased over time, as shown by Figure 5.18. The report of the Commission (European Commission 2009), indeed, reveals that there is an increase, in the last two legislature, in presenting policy initiatives in the form of packages, which include several legislative proposals.

Figure 5.18: Share of package laws, by legislative term and in total



5.4. A summary of the variables

Before proceeding to the second part of the Chapter, few remarks are necessary. The previous sections have introduced to the determinants of the Conciliation Committee's outcomes. The dependent variable highlights the parliamentary bargaining success, by resulting from the document comparison through Wordfish. The independent variables include the factors that may affect the bargaining outcome at this legislative stage, and in particular, the likelihood that the Parliament may enjoy a successful performance in the conciliation negotiations. According to the hypotheses previously presented in Chapter 3, three factors may encourage or obstruct the Council's success, biased by the asymmetric game occurring within and between the two legislators. First, the impact of the institutional framework is tested through three variables: unanimity voting in the Council, acts voted under the Treaty of Maastricht and the size of the parliamentary assembly. Second, the threats of non-acceptance at third reading as well as manipulation process are tested by five variables related to key players involved in the bargaining. These variables test how influential rapporteurs are to issue threats, once they fulfil leadership roles, they come from large party groups and are represented in the Council. Reputational incentives may occur and affect the bargaining outcome, especially when newer member states chaired the Council and the assembly is at the beginning of its

mandate. Some of these variables are likely to corroborate alternative causal mechanism (e.g. large party and leader rapporteur and term length).

Finally, the third group of determinants concern implementation, tested through two variables, which are connected to the role of the European Commission. I include variables related to the type of measures they are negotiated on, and the share of parliamentary amendments the Commission accepted.

Table 5.2 provides a summary of these variables with their features and the expected relation with Parliament's bargaining success. Table 5.3 shows the descriptive statistics of each variable.

Table 5.2: Variables and expected relations with parliamentary success.

Variable	Description	Hp	Sign
Dependent variable			
Parliament's success	$= 1 \text{ if } \omega_{EP2} - \omega_{JT} < \omega_{CP} - \omega_{JT} , 0$ otherwise		
Independent variables			
<i>Institutions</i>			
Unanimity	$= 1 \text{ if Council unanimity is required, } 0$ otherwise	2	-
Codecision II	$= 1 \text{ if Amsterdam Treaty procedure, } 0$ otherwise	3	+
MEPs	Number of MEPs	4	-
<i>Veto threat and reputation</i>			
Large party rapporteur	$= 1 \text{ if rapporteur in leadership position, } 0$ otherwise	5a/5b	+/-
Leader rapporteur	$= 1 \text{ if rapporteur from EPP or PES, } 0$ otherwise	6a/6b	+/-
Government rapporteur	$= 1 \text{ if rapporteur from party in government, } 0$ otherwise	7	-
President state seniority	$\ln(\text{no. of membership years of President}$ country)	8	-
Term length	No. of months into parliamentary term	9a/9b	+/-
<i>Implementation</i>			
Commission rejection	Share of EP amendments rejected by Commission	13	-
Directive	$= 1 \text{ if directive, } 0 \text{ otherwise}$	14	+
<i>Control variables</i>			
New act	$= 1 \text{ if new act, } 0 \text{ otherwise}$	1	-
Package	$= 1 \text{ if part of package, } 0 \text{ otherwise}$		-

Table 5.3: Descriptive statistics of the dependent and independent variables.

Variable	Obs.	Mean	Std. Dev.	Min	Max
Dependent variable					
Parliament's success	179	0.302	0.460	0	1
Independent variables					
<i>Institutions</i>					
Unanimity	179	0.078	0.269	0	1
Codecision II	179	0.648	0.479	0	1
MEPs	179	6.391	0.547	5.18	7.85
<i>Veto threat and reputation</i>					
Large party rapporteur	179	0.665	0.473	0	1
Leader rapporteur	179	0.263	0.441	0	1
Government rapporteur	179	0.402	0.492	0	1
President state seniority	179	3.106	0.804	1.099	3.932
Term length	179	80.84	41.69	8	147
<i>Implementation</i>					
Commission rejection	179	0.4626	0.309	0	1
Directive	179	0.637	0.482	0	1
<i>Control variables</i>					
New act	179	0.559	0.498	0	1
Package	179	0.274	0.447	0	1

5.5. Explaining the bargaining success in the Conciliation Committee

In the following two sections I inspect how these factors may influence parliamentary success in conciliation through a multivariate statistical analysis. First, I look at the systematic effects and I explore whether the parliamentary bargaining success occurs by chance. Second, I test the hypotheses illustrated in Chapter 3.

5.5.1. Systematic effect of the parliamentary success

In 30.2 per cent of conciliation dossiers, the joint text results to be closer to the parliamentary second reading than the common position. This proportion has been on average constant throughout the period under examination, with slight increases in the fifth legislative term (almost 40 per cent). In Table 5.4, I show the results of binomial tests with an epiphenomenal conciliation committee as null hypothesis (i.e. where the probability of parliamentary success is 0.5, a split-the-difference outcome), even when legislators negotiate over new measures (i.e. non amending law). The probability that the expected frequency of success (k) in case of an epiphenomenal committee exceeds the observed frequency of success is above 99 per cent in most cases. In other words, the Parliament significantly underperforms in these negotiations. If I consider only non amending laws the probabilities are similar with the exception of the fifth term. In this term, the probability that the expected frequency of success exceeds the observed frequency is slightly above 60 per cent.

Table 5.4: Frequency of parliamentary success

	Legislative term							
			IV		V		VI	
	All	New laws	All	New laws	All	New laws	All	New laws
<i>EP success</i>	54	30	13	6	33	20	6	3
N	179	79	59	21	86	42	23	10
z-statistic	-5.31	-2.14	-4.30	-1.96	-2.16	-0.31	-2.29	-1.26
Pr ($k \geq EP\ success$)	1.000	0.988	1.000	0.987	0.989	0.678	0.995	0.945

Note: One-sided binomial probability tests; k is the expected frequency in case of $H_0=0.5$

5.5.2. Results from inferential analysis

I perform a logistic regression with a probit link function²⁷ to examine the relationship between the independent variables and the parliamentary success at conciliation. Table 5.5 presents the results. Model 1 tests only hypotheses on institutional features (hypotheses 2, 3 and 4), controlling for specific characteristics of the dossiers, namely the inclusion in package deals and the novelty of the measure. Model 2 tests additional hypotheses on uncertainty about negotiators' preferences by the main actors involved in conciliation (hypotheses 5a, 5b, 6a, 6b, 8, 9a and 9b). Finally, model 3 tests all the hypotheses, including those on implementation (hypotheses 13 and 14). Table 5.6 shows that just a few of these factors have a substantive influence on the chances that the Parliament is successful in conciliation. Let us examine now the impact of each variable.

The results of the statistical analysis are mixed. Table 5.5 shows that institutions matter. The parliamentary success is likely to increase both when the Council decides by qualified majority voting and after codecision reforms introduced by the Treaty of Amsterdam. The highest Council's voting threshold confers a veto power to the Council member that is the least accommodating towards the demands of the Parliament, as the spatial models of Tsebelis (2002) as well as Napel and Widgrén (2003) predict. This weakness clearly emerges from the data, since, under unanimity, the probability of parliamentary success decreases by between 24 to 26.5 percentage points.

In addition, when the dossier is bargained in conciliation, according to the reform introduced by the Treaty of Amsterdam, the chance of parliamentary success increases by between 15.3 and 18.9 percentage points. Despite evidence to the contrary (Hix 2002; Kasack 2004), it seems that these changes have actually strengthened the Parliament's hand. This is in line with Garrett and Tsebelis' (1996) analysis of parliamentary powers under the first version of codecision. These results are very robust. The correlation between the two independent variables and the likelihood of parliamentary success is statistically significant in each model: at 0.05 level in model 2 and 3, and at 0.10 in the first model.

²⁷ I employ a probit link, instead of a logit, because *EP success* reflects an underlying interval variable. Hence, its cumulative distribution is normal.

Table 5.5: Determinants of parliamentary success

	Model 1	Model 2	Model 3
<i>Institutions</i>			
Unanimity	-1.043* (0.541)	-1.222** (0.560)	-1.200** (0.546)
Codecision II	0.471* (0.251)	0.606** (0.259)	0.634** (0.266)
MEPs	-0.153 (0.217)	-0.175 (0.231)	-0.195 (0.234)
<i>Veto threats and reputation</i>			
Leader rapporteur		0.190 (0.242)	0.257 (0.256)
Large party rapporteur		0.497** (0.225)	0.476** (0.236)
Government rapporteur		0.0417 (0.215)	-0.0483 (0.240)
President state seniority		-0.198 (0.140)	-0.269* (0.151)
Term length		0.456 (0.281)	0.582* (0.300)
<i>Implementation</i>			
Commission rejection			-1.015** (0.396)
Directive			0.706*** (0.251)
<i>Other factors</i>			
New act	-0.364* (0.208)	-0.362* (0.216)	-0.433* (0.246)
Package	-0.237 (0.244)	-0.318 (0.262)	-0.328 (0.282)
Constant	0.460 (1.334)	0.362 (1.547)	0.596 (1.646)
N	179	179	179
Log-pseudolikelihood	-102.8	-98.49	-90.74
Wald chi2	11.79	21.16	38.01

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

Dependent variable: *EP success*.

Table 5.6: Predicted effects of the explanatory variables

	Change in probability of parliamentary success ^a	Change in probability of parliamentary success ^b	Change in probability of parliamentary success ^c
Unanimity	-0.251 (0.075)	-0.265 (0.061)	-0.240 (0.057)
Codecision II	0.153 (0.076)	0.189 (0.073)	0.185 (0.070)
MEPs	-0.052 (0.074)	-0.058 (0.077)	-0.061 (0.074)
Leader rapporteur		0.065 (0.084)	0.084 (0.087)
Large party rapporteur		0.156 (0.066)	0.141 (0.065)
Government rapporteur		0.014 (0.072)	-0.015 (0.075)
President state seniority		-0.066 (0.047)	-0.085 (0.048)
Term length		0.152 (0.094)	0.183 (0.094)
Commission rejection			-0.320 (0.127)
Directive			0.206 (0.066)
New act	-0.121 (0.072)	-0.121 (0.073)	-0.138 (0.080)
Package	-0.078 (0.078)	-0.101 (0.079)	-0.098 (0.079)

Note: change in the probability that the Parliament is successful when a variable increases by one unit, all the other values being set at their means.

Standard errors in the brackets.

^a The predicted values are estimated from model 1 in Table 5.5.

^b The predicted values are estimated from model 2 in Table 5.5.

^c The predicted values are estimated from model 3 in Table 5.5

Therefore, the two hypotheses on the voting rule inside the Council and the reforms on the codecision of the Amsterdam Treaty find substantive corroboration. Following Baron and Ferejohn (1989), in Chapter 3 I formulate the hypothesis that when the size of the assembly is smaller, the conciliation outcomes are more similar to the Parliament's position than to the Council's. Unfortunately, this hypothesis is not confirmed empirically, since there is no statistical significance.

Moving to the large set of hypotheses on uncertainty and reputation (hypotheses 5a to 9b), the results weakly support my expectations. Rapporteurs with certain characteristics may benefit the Parliament, because they are able to extract more concession from the Council during negotiation within the Conciliation Committee. Rapporteurs coming from large party, indeed, may be more credible when issue veto threats and may rely on larger support in the plenary, as motivated in Chapter 3. Both explanations may hold and are corroborated. The Parliament, indeed, is better off when rapporteurs come from large party and its bargaining success increases by between 14.1 and 15.6 percentage points.

When including other factors (in Model 3), two hypotheses are tested: the learning process faced by the member state holding the Council's Presidency and dynamics involving the electoral cycle of deputies. First, there is weak evidence that Council Presidents coming from newer member states are more accommodating toward the Parliament, perhaps because their beliefs are more easily manipulable. If I compare two member states having joined to the European Union in later enlargement groups – Greece and Austria – the chance of parliamentary success would be lower in the former case. Indeed, in 1998, Greece has been a member of the EU for seventeen years, while Austria just joined the three years earlier. If a Greek rather than an Austrian minister presided over the Council in the second semester of that year, the likelihood of parliamentary success would lower by 13.2 percentage points. Second, despite my expectations, reputational incentives clearly do not seem to operate within the assembly at the beginning of a term as McCarty's (1997) model suggests. The sign of the correlation is contrary to my expectation and it has even weak statistical significance. A Parliament facing elections in six months is 7.9 percentage points more likely to win in conciliation than a Parliament six months into its term. A weak learning process may be at place here or, as the interviews would suggest in Chapter 6, election-minded

politicians may pander the electorate. This further constraint strengthens the negotiating hand of the Parliament vis-à-vis the Council.

The other hypotheses on belief manipulation and reputation are not corroborated. I do not find evidence that rapporteurs in a position of leadership can extract more concessions from the Council, although the sign is positive. Costello and Thomson's (2011) opposite expectation is even so disconfirmed. Moreover, despite Rasmussen's (2011) evidence, the hypothesis on party allegiance is not empirically verified. The Parliament is not systematically disadvantaged if the rapporteur is from a party represented in the Council.

The results in Table 5.5 highlight that expectations on implementation are corroborated and very robust. The coefficient of *Commission rejection* is statistically significant at 0.05 level and negative. When the Commission decides to reject all of the second reading amendments of the Parliament, rather than only half of them, the chances that the Parliament would win in conciliation diminishes by 32 percentage points. Of whom the Commission takes side matters because its role in implementation is far from trivial. Politicians cannot ignore the effective delivery of a measure's benefits. This is in line with the finding of König et al. (2007), although I prefer a causal explanation based on the formal role entrusted upon the Commission in implementation rather than on informal bargaining resources. Certainly, the two causal stories are not mutually exclusive and may be related.

The influencing role of the Commission reveals also in the implementation procedure, according to the type of measure. Results indicate that the probability of parliamentary success increases by 20.6 percentage points when national administrations are more involved in implementation than the Commission. Ministers are more accommodating because they can rely on a wide array of ex-post control mechanisms, such as public disclosure requirements, evidentiary standards and appeal procedures. On the contrary, parliamentarians are less accommodating because legislative design is the primary control mechanism at their disposal. In other words, parliamentarians value legislative design as control mechanism much more than ministers do.

Finally, new act is considered as a proxy of the cost of disagreement value. My expectation is confirmed, because the Parliament's chance of winning diminishes by 12 percentage points when next acts are negotiated. In these circumstances, a more

accommodating Parliament may indeed indicate that its members attach a lower disagreement to the measure at hand than the one assigned by ministers. In other words, a negotiating failure is more costly to parliamentarians. On the other contrary, the empirical evidence does not corroborate hypothesis on package laws and even the sign does not confirm my expectation, that the Council, being more constrained by deals with among member states, may be more successful in conciliation bargaining.

Conclusions

In light of the descriptive and inferential statistics in the present Chapter, getting to conciliation is not a foregone conclusion for the Parliament. Despite the structural weakness, the results highlight that the Parliament have some opportunities to increase its chance of success in conciliation. In particular, the current setting seems to be favourable for the assembly: the post Amsterdam reforms as well as an ever increasing number of policy issues subject to qualified majority voting significantly enhance the probability of winning by the Parliament. Moreover, I find that the Commission exerts an influential role during the decision-making process, when it releases its opinion on the Parliament's position. The importance of implementation is evident. The asymmetry in the availability of ex-ante and ex-post control mechanisms for ministers and parliamentarians, when the Commission or national administrations are the main implementers, explain the more and the less accommodating attitudes of the two groups of legislators. Very robust results indicate, indeed, that the Parliament is more successful when the Commission is at its side and national administrations are the main implementers. Finally, the Parliament could take advantage of other weapons but weak support occurs in veto threats and belief manipulation hypotheses. Only partisanship of the rapporteur finds enough empirical corroboration, confirming the hypotheses that rapporteurs coming from larger parties increase the chance of Parliament's success. However, both the explanation based on veto threat and the preference-oriented argument may coexist, requiring more investigation.

6. Conciliation and negotiators

In this Chapter I offer a qualitative contribution to the analysis of the factors determining the negotiations in the Conciliation Committee based on extensive interviews with key negotiators from the institutions, both in the Council, Parliament and the Commission, directly involved in the procedure. The interviews explored the influence of some of the most important theoretical arguments for more than 80 cases, without precluding close analyses of certain specific dossiers. There is no case selection: discussions involved eleven key actors, both of the Council and Parliament, civil servants as well as politicians about a lot of dossiers that reached conciliation. Some interviewees have experience over many conciliation negotiations. They know how legislative outcomes were affected by different factors, leading to more generalization. Other interviews focus on specific dossiers, therefore ignoring contingent factors. The interviewed negotiators broadly illustrated how the conciliation works and what factors determine a successful resolution of the negotiations. This qualitative analysis corroborates the explanatory power of some factors, and shed lights on other relevant mechanisms previously ignored.

This qualitative analysis supports some of the decisions taken in the quantitative empirical tests. It investigates the role of the rapporteur's party, the learning process of the Council President and the role of the Commission. Unfortunately, the narrow focus on the more recent files precludes from exploring the impact of institution. Indeed, I cannot control the relevant influence by institutional features, such the difference in terms of parliamentary power occurred between the Treaty of Maastricht and the Treaty of Amsterdam and the voting rule of the Council. The former was not explored because no interviewee dealt with dossiers so far back in time, while the latter displays no variation since no file prescribed unanimity. Despite these two variables were identified as central to our theory, the institutional setting reveals to be an influential factor in

determining the parliamentary success. Interviews were useful to identify two additional aspects: the different deadlines negotiators face and the new provisions of the Lisbon Treaty.

The in-depth analysis of the dossiers accomplishes other significant, otherwise neglected, objectives. First, the personality of the *relay* actors can be examined qualitatively. Because of measurement difficulties, it was ignored in the quantitative analysis. Second, I study the role of other parliamentary actors which are involved in the conciliation along the rapporteur: the EP delegation chair, the party coordinators, the chairperson of the responsible committee. Third, public opinion may exert constraints on parliamentarians and has an impact on the disagreement value they attach to dossier. However, this last factor is likely to have implications only to those dossiers relevant for the public opinion.

Finally, the qualitative analysis serves as an important reminder that the conciliation stage is crucial in the resolution of sharp conflicts between and within the legislative institutions. Conciliation is likely to be used only occasionally, but it is a mechanism of last resort in order to settle dispute. Even though the lion's share of recent research on European legislative politics has centred on early agreements, the analysis highlights the importance of this instrument, as Paolo Costa (ALDE, IT) the former chairman of the Transport committee, pointed out:

Conciliation was not a casual fact, it was one of the elements, one moment of the process [...]. We have seen it as a whole process, because it is from the beginning to the end, so you must take into account that there could be three levels of negotiations, being aware that they are. Conciliation was not a possible fact, but it was the normality. It was not dramatic to get to conciliation, we should not avoid it, but we used it.

6.1. Who is more successful?

My interviews with key negotiators probed the successfulness of the two institutions in the last round of this legislative procedure. All the high-ranked civil servants and deputies of both the Council and the Parliament agree. The assembly is not in a

favourable position at the last stage. Reasons rely on the different institutional structures. Since the Council has no deadline to issue its common position, member states may delay the agreement until they do not have reach a strong consensual position to bring to conciliation. It is of high relevance that interviewees having an experience over a lot of dossiers assert that the Council is in a more advantageous position. This corroborates the quantitative findings with Wordfish estimates, for which the Council is successful in almost 70 per cent of conciliation negotiations. On this vein, Nikolaos Tziorkas, a high-ranked bureaucrat of the Parliament, says:

[I]f a file reaches the conciliation this is very important for the Council and therefore the Council has an interest in getting an agreement and therefore the Council will be willing to compromise. Otherwise, if something is not important for the Council, it remains frozen in the Council [at the first reading] for years and then it is forgotten.

In other words, at first reading the Council may block those dossiers on which member states cannot reach a consensual common position. Therefore, in conciliation there are dossiers that are extremely important for an overwhelming majority in the Council. On the contrary, the Conciliation Committee has a very strict timetable and only the remaining underlying issues of conflict are on the negotiating table. Even though more parliamentary amendments than of the Council are literally adopted in conciliation, these treat mostly with secondary issues, strengthening the idea among key negotiators that the Parliament is in a weakened position vis-à-vis the Council. The same official, indeed, highlights this consideration.

The last statistics says: 30% Parliament, 20% Council and 50% compromise of the amendments. I can tell you for numbers that we tend to have more amendments approved than the Council in the conciliation phase. But very often they are not so important, the actual provisions.

Alejo Vidal-Quadras (EPP, ES), one of the vice-President for conciliation, went even further in discussing the extent of success to which the Parliament influences in the conciliation:

[W]hen you look just to this step, if Parliament wants 100 and the Council wants 100, normally what the Parliament gets is 30 or 40 over 100, in the last step. That's true.

Even Antonio Tanca, on behalf of the Council's Secretariat for Conciliation, substantially confirms the Council's successfulness vis-à-vis the Parliament.

The permanent representatives of COREPER 1 are involved in more than one dossier for an extensive period of time, unlike the parliamentarians of the responsible committee. The permanent representatives can develop throughout the years a more cohesive *esprit de corp* and collaboration among colleagues. Although this capacity cannot be measured and corroborated quantitatively, the statements of these three interviewees are relevant since they have negotiated many dossiers at conciliation.

However, not every institutional and leader member of the Parliament agreed on the low parliamentary success. For instance, Caroline Jackson, former Chairman of the European Parliament's Committee on the Environment, Public Health and Food Safety – one of the busiest legislative committees of the Parliament – pointed out that:

[I]n the environment the Parliament was always in a powerful position, because the Environment Council always wanted that the legislation goes through in some shape or form. [...] I think that Conciliation is quite a success, because indeed involved the Parliament in detailed negotiations on matters of great importance. Where I was conscious that things were not running well was when the Parliament was asking for changing the legislation on the basis of the amendments passed in the committee and in the plenary.

Interestingly, the successfulness of the Parliament during Jackson's chairwomanship between 1999 and 2004 is confirmed by Wordfish estimates. Under her chairpersonship, the Council and the Parliament have tied in Conciliation Committee's negotiations. While the overall statistics on bargaining success using Wordfish estimates show a weakened bargaining position of the Parliament vis-à-vis the Council, in the files bargained under Jackson's chairwomanship the Conciliation Committee produced joint texts more similar to the EP readings. The joint text, indeed, results to be closer to the Parliament's position than the common position in less than one third of all conciliation

dossiers, but, if I consider only the dossiers bargained under Jackson's chairwomanship, Wordfish estimates that in 18 out of 38 dossiers the Parliament is successful.

6.2. Disagreement value

Ending bargaining depends on the disagreement values of negotiators. Who can afford a negotiating failure? And who can afford to reach conciliation? The answer is straightforward. The institution closest to the status quo can better afford a lack of legislation. König *et al.* (2007) find that being closer to the status quo leads to more success at the negotiating table, because this negotiator is less accommodating. In Chapter 5 I find that the Parliament's chance of winning diminishes when new acts, considered as a proxy of disagreement value, are negotiated. A negotiating failure results to be more costly to the Parliament than to the Council.

Only few files have failed either to reach an agreement in conciliation or to be adopted at third reading by the plenary, bearing in mind that the Council and the Parliament differ on their capacity to stop bargaining. In all the dossiers that fail to produce a law, the Council has never formally blocked the proposal, rather the Parliament has. On the contrary, the Parliament rejected the bills, either by its delegation in the Conciliation Committee, or by the whole assembly at third reading. To some extent I can distinguish negotiation failures as the results of *interinstitutional* conflicts, when the Council and the parliamentary delegation fail to produce an agreement, or *intrainstitutional* conflicts, when the plenary rejects the joint text, denying the agreement voted by its own delegation. In this section, I focus only on those dossiers that failed to reach a compromise either at conciliation or at third reading.

6.2.1. The Working Time Directive

In 2009, for the first time under the second version of the codecision, conciliators failed to reach an agreement²⁸. The parliamentary delegation took the decision by unanimity to

²⁸ Under the provisions of the Treaty of Maastricht two dossiers were rejected at the Conciliation Committee: the draft directive on the application of open network provision to voice telephony

reject any joint text. Why did the Parliament vote against it? After nearly five years of negotiations, the proposal for the Working Time Directive (COD/2004/0209) was not adopted in the Conciliation Committee. No compromise between the Parliament and the Council was possible because of three controversial issues: opting out clause, on-call time and multiple contracts. First, the opt-out clause refers to the possibility for member states not to apply the maximum weekly working time (48 hours) if the worker accepts to work longer. While the Parliament limited the opting out clause to three years after the entry into force of the law, the majority of the Council and the Commission were opposed to such a solution. Second, the definitions of on-call time and inactive part of on-call time were a matter of dispute²⁹. Cercas, the rapporteur, pointed out that excluding inactive time from the period of on-call time, as the Commission and the Council proposed, would have been detrimental for many categories of workers, who have on-call duties, such as medical staff. Third, the issue deals with multiple contracts. Unlike the Council, the Parliament supported workers covered by more than one employment contract: the working time should have been calculated as the sum of the periods of work undertaken under each contract. The Working Time Directive was a collection of political considerations and institutional reasons. All the parliamentary members argued that it would represent a step backwards, or a “cosmetic adjustment”³⁰, in comparison to the existing legislation on the working time organization and the European Court of Justice’s rulings. To some extent, the failure of the Conciliation Committee to reach the agreement was a demonstration of the Parliament’s institutional power in front of the Council and the Commission. As Alejandro Cercas (S&D, ES) argues:

(COD/1992/0437) and on capital adequacy and securities field of investment firms and credit institutions (COD/1995/0188).

²⁹ The Commission proposal makes the distinction. '*On-call time*' means a period during which the worker is obliged to be available at the workplace in order to work if called upon to do so. '*Active*' periods are the periods during on-call time when the worker is effectively carrying out his/her duties in response to a call. '*Inactive*' periods are the periods where the worker remains on-call at the workplace, but is not effectively engaged in carrying out his/her duties.

³⁰ Alexander Cercas (S&D, ES).

They were convinced that I did not have the absolute majority I needed for the second reading. [...] The Parliament felt injured and despised, but the original directive is still in force.

The case of the Working Time Directive sheds light on the strong bargaining power the Parliament has vis-à-vis the Council. Delegates of the Parliament believed that letting negotiations collapse was less costly than accepting a law considered as “cosmetic adjustment”. Not only the parliamentary delegation attached higher value to disagreement than the Council, but it was more willing to take risk. As McCarty and Meirowitz emphasize, negotiators who are more risk tolerant should be more successful, because “they make tougher demands and reject more offers” (2007, 279). Similarly, the parliamentary delegation rejects the Council’s proposal and prefers the current legislation rather than the offered bill, because as Cercas, the rapporteur of the Working Time Directive, says:

If we do a directive is to improve, not to do a cosmetic thing. This common position is a make-up, there is no change, neither in the definition nor in the opting out. There is nothing. [...] if it is like this we are not [in the] game.

6.2.2. The Novel Food Regulation

The latest dossier that failed to produce an agreement in conciliation regards the amending proposal on Novel Food Regulation (COD/2008/0002). The most controversial point was on excluding food derived from cloned animals and their offspring from the scope of the legislation. While the Parliament wanted a more constrained food labelling and expressed concerns about the use of cloned animals and nanotechnology for food, the Council supports a more permissive approach, backing a case-by-case authorisation process. Also in this circumstance the two delegations were in conflict and, at the same time, the EP’s delegation offered firm and tough proposal to the Council, by deciding unanimously. The EP vice-President in charge of conciliation, Gianni Pittella (S&D, IT), pointed out the non-adequated willingness of ministers to find compromise, even though food safety represents one of the main pillars of the

European Union. Pittella said the Parliament would not have been reassured by generic statement of the Council:

It is not enough a little spray of face powder to satisfy consumers. The European Parliament asked for a credible solution. [...] Governments are keeping thinking that all decision are up to them. Still it is not clear that there is an institution – the European Parliament – that codecides. [...] [the ending] was not your fault [the Hungary Presidency], but it was the fault of the governments' impasse, between different positions.

Even in this dossier, parliamentary key negotiators believed the act would have been a façade measure, without improving the existing legislation on novel food. Since deputies attached a higher disagreement value to the draft Regulation than the one assigned by ministers, the negotiating failure was not considered as a cost.

Sándor Fazekas, Hungary's minister for rural development, who led negotiations on behalf of the Council, accused the Parliament of failure “because of [its] inability to compromise on its request for mandatory labelling for food derived from offspring of cloned animals irrespective of the technical feasibility and the practical implications of such mandatory labelling” (Council of the European Union 2011). Nevertheless, even in the Council the temptation for disagreement was very high, since some member expressed relevant reservation on the act. According to one high-ranked bureaucrat in the Council's COREPER, the opposing faction says: “*If this is the price, it is better not having anything.*”

6.2.3. Third reading rejections

In addition to the four cases where the Conciliation Committee did not find an agreement, three joint texts were not adopted by the parliamentary assembly. Aside from the draft directive on biotechnological inventions (COD/1988/0159), which was rejected according to the provisions of the first version of codecision, and the one on takeover bids (COD/1995/0341), the last dossier rejected at 3rd reading was the draft directive on port services (COD/2001/0047). As far as this last dossier is concerned, the most controversial issue was the definition of "self-handling". A majority of MEPs

argued that the directive would allow workers from boats, and not only professional dockers as the existing legislation provided, in harbour to load in European ports. The EP delegation to the Conciliation Committee adopted the joint text but with sharp divisions, resulting with 8 votes in favour and 7 against. The Socialists, Greens/ALE, and GUE/NGL groups strongly opposed the idea of crew being used for cargo-handling, because it would have jeopardized safety standards. The parliamentary vice-President, Renzo Imbeni (PES, IT), instead of following his party instructions and rejecting the compromise, voted in favour in order to give the chance to vote to the plenary. The head of the codecision and conciliation unit of the Parliament, Nicolaos Tziorkas, remembers that:

The German rapporteur of the EPP group wanted to find an agreement and the chair of delegation was Renzo Imbeni [...], who was of the Socialists. Although the rapporteur wanted to find an agreement and he had the support of his political group, almost half of the delegation,[among which] the socialists, didn't want to have an agreement. Then he [Imbeni] decided to support at the very end the agreement in order to give the possibility to the whole Parliament to vote and decide what to do. [...] He was defending the prerogatives of the Parliament, not to block an agreement at the level of the parliament delegation, of 15 people, but then bring this to the plenary, although this went against the interest of his party. He did so and he explained that, he was criticized by his own party. But after all in the plenary there was a majority against the agreement, but so he felt he defended his institutional role. [...]

In the plenary 229 MEPs (chiefly members of the PES, Greens/EFA and GUE/NGL groups) voted against the joint text and the bill was rejected.

As a result, the few cases the legislative procedure failed to be enacted, either at conciliation or in the plenary, are explained by the incomplete information actors manage when they bargaining with each other. The value of disagreement allows investigating who is more likely to reject or to accept the counterpart's proposal. In the four cases the Conciliation Committee failed to reach a compromise, the parliamentary delegation voted unanimously against the solution proposed by the Council. The drafts

were amending proposal to existing legislations, so the failures have left the Parliament with the existing EU law. Was the ministers' disagreement value higher than parliamentarians' in these cases? As far as the dossiers on Working Time and on Novel Foods are concerned, parliamentarians expressed clearly their rejection for the proposals, since they would not be better off, in comparison to the existing legislation. In these cases, I can state that the Parliament had high disagreement value. On the contrary, in the cases where joint texts were rejected by the plenary the disagreement value of the Parliament was rather high and discrepant between the delegation and the plenary. It is worth noting that, with the exception of the draft directive on the legal protection for biotechnological inventions, the two joint texts were reached fraught of tensions in the parliamentary delegations. Both dossiers, discussed under the provisions of the Amsterdam Treaty, faced sharp divisions in the delegations and a narrow majority approved the joint texts in conciliation and in the plenary³¹.

The Parliament, in different institutional forms, attached to these files higher disagreement values than the Council because it discharged the dossiers. But, how does disagreement value affect the legislative outcome in cases of positive resolution of the process? It is difficult to find evidence from interviews whether there is corroboration of the analyses conducted both by Napel and Widgrén (2006) and König *et al.* (2007). Through a formal model, the former predict that the Council attaches a higher value to the status quo than the median voter in the Parliament. The empirical analysis of König *et al.* (2007) confirm the positive impact of the proximity to the status quo on the bargaining success of one chamber. However, in Chapter 3 I express doubts on the validity of such results.

³¹ The proposal for the directive on company law concerning takeover bids (COD/1995/0341) ended up in conciliation with 8 votes in favour, 6 against and 1 abstention; in the plenary 273 deputies voted yea, 273 nay and 22 abstain. In conciliation the draft directive on Market Access to Port Services (COD/2001/0047) received 8 yea votes and 7 nay, while in plenary it counted 229 votes in favour, 209 votes against, 16 abstentions.

6.3. Institutions

In Chapter 3, I discuss the structural differences between the Council and the Parliament. Conciliation outcomes are more successful for the Council, thanks to its composition, voting and amendment rules. However, other constitutional factors bias the legislative outcome in favour of the Parliament, such as the qualified majority voting and the second version of the codecision procedure, as I find in Chapter 5.

Interviews with high-ranked bureaucrats and key participants of the Conciliation Committee's negotiations do not provide sufficient information on the impact of the two procedural features: the modification of the codecision by the Treaty of Amsterdam and the gradual expansion of the qualified majority voting. Therefore, considering the impact of institutions on the legislative outcome is difficult. The two procedural changes are, unfortunately, disregarded as no interviews were performed on the dossiers concluded under the Treaty of Maastricht or unanimously voted by the Council. Nevertheless, the negotiations between the two delegations are asymmetric, in terms of different opportunities to affect legislation and room of manoeuvre. Interestingly, even though restricted to the dossiers on the Working Time Directive and Passengers' Right Regulation, the two rapporteurs lend support to the Schelling conjecture. As mentioned in Chapter 3, constrained negotiators may obtain a more favourable outcome, because they have limited alternatives to their proposed policy (Schelling 1960). Members of the Council delegation are more constrained and cannot move their positions in favour of the Parliament. In other words, as two rapporteurs – Cancian (EPP, IT) and Cercas (PES, ES) – emphasized, they are less accommodating towards the Parliament's stance.

The Council wins because of how the work is set up. At the end the Council decides and this Europe is still hooked and addressed to the States. [...] The opening assumption is that the Council is stronger, no matter, in the Council [the legislation] cannot pass, while here it certainly goes further.

There is a huge insistence in the whole conciliation system in order to say yea. The problem is that in this relation the weakest party is the Parliament. [...] The dynamic generating within the Conciliation Committee is all in favour of the Council, because

the Commission knows that either the Council positions are winning out or there is no conciliation. The Council has no mandate of manoeuvre.

The two rapporteurs affirm that the tactic adopted by the representatives in the Council was to invoke the binding relation with the national governments. They could not set different policies than what they offered because of the constraints national interests imposed on them. In the case of the Working Time Directive, few member states, among which the United Kingdom, considered the issue of the opt-out clause on the maximum 48-hour working week very important and defined it as the building block of the directive proposal. The scope of application of the Regulation on Passengers' Rights marked the difference between small and big countries. Spain, sustained by a powerful lobby on coach transport, fixed the coverage over 250 kilometres, to exempt regional transport. Because of such substantial threshold, the directive would not apply to certain small countries, as Malta, Cyprus and Luxembourg, while other countries are exempted as they lack of a regional transport network with routes longer than 250 kilometres. Spain, instead, was particularly inflexible in order to accomplish national demands.

6.3.1. Implementing and delegated acts

One institutional feature may affect the parliamentary success in conciliation's bargaining, though. It regards new provisions introduced by the Treaty of Lisbon. The Lisbon Treaty set down more power for the European Parliament with the newly inserted article 290 prescribing a new category of acts – the delegated acts.

There are two possible avenues for delegating powers to the Commission. The implementing and delegated acts, laid down by articles 290 and 291 of the Treaty of Lisbon, repeal the comitology system established under the previous Treaties. The legislator may grant to the Commission the power to take either delegated acts or implementing acts. The former are described as supplement or amendment of certain non-essential elements of the legislative acts, while the latter set out uniform conditions for implementing EU legally binding acts. The crucial distinction between the two types of measure matters because, unlike implementing acts, delegated acts are subject to additional controls by the Council and the Parliament. Article 290 allows Parliament

and the Council to delegate to the Commission the power to adopt "non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act" or to revoke the delegation.

On the other hand, implementing acts are required in circumstances where the measures need uniform implementation across the European Union. Until the entry into force of the Treaty of Lisbon, implementing power was held by the Council, which delegated the adoption of implementing acts to the Commission. Article 291 (TFEU) directly authorises the Commission to adopt implementing acts, without any further involvement of the European Parliament. In sum, delegated acts strengthen parliamentary power: Parliament's veto right allows it to block a draft measure it objects, by requiring the Commission to present an amended proposal.

The first circumstance the delegated acts could be employed occurred for the package on the External Financial Instruments³² in 2009. Especially during the legislative process of the Banana Accompanying Measures, the Council and the Parliament harshly debated on whether to admit delegated or implementing act. In contrast to the Parliament, the Council argued that the measures did not imply delegated acts, since strategy papers and multiannual programmes implement the broad guidelines set out in the regulations. These texts do not supplement or amend the basic regulations, but they aim at implementing the guidelines set out in the regulation. Furthermore, these programmes are not acts of "general application", since they are addressed to third countries. The Parliament considered this interpretation as an attempt to limit the new powers of the Parliament. Both the EP vice-President (Alejo Vidal-Quadras) and the rapporteur (Charles Goerens) of the Banana Accompanying Measures agreed.

The Council was not willing to find any compromise. They simply refused an appropriate interpretation of article 290. [...] They have not well understood the new provisions under the Lisbon Treaty [...]. Article 290 is a new article, and a new spirit of the convention. In that spirit all the members of the European convention aimed at

³² The package, which amends previous regulations, includes financial instruments for development cooperation: with industrialized countries (COD/2009/0059), for external actions (COD/2009/0060A), for the promotion of democracy and human rights (COD/2009/0060B) and on Banana Accompanying Measures (COD/2010/0059).

giving to the EP increasing power, [...] concerning the definition of strategic aspects in external policies. And the Council was not inspired by this spirit. It [the Council] is not in line with the provision of the Treaty, is not in line with the provision of the equal say between the Council and the Parliament.

[W]e have now codecision in many more area. The Lisbon treaty is strengthened very much the power of the Parliament, and of course we need a period of adaptation. Because in the first post-Lisbon period Council is extremely resentful of the new powers of Parliament and Parliament is very keen to show the new power. In the case of banana was a test for this.

Interviews to Charles Goerens and Alejo Vidal-Quadras confirmed that the new provisions of the Treaty of Lisbon would have strengthened the bargaining power of the Parliament, when measures prescribe delegated acts for the implementation. However, the two deputies pointed out that the Council tries to limit this application in as many dossiers as possible, adopting intransigent positions vis-à-vis the Parliament. According to the two interviewees, the Council may become more accommodating after a period of learning and adaptation of the new rules introduced by the Treaty of Lisbon.

In conclusion, in the long run measures prescribing delegated acts may be a factor that biases the conciliation outcomes in favour of the Parliament.

6.4. The Negotiators

6.4.1. The rapporteur

Affiliation of the rapporteur to a large party is likely to increase Parliament's success in conciliation. In Chapter 5 I find empirical evidence that, since rapporteurs coming from large parties issue more credible veto threats and can represent better the views of assembly, they affect the final legislation in favour of the Parliament. Similarly, in the interview-based analysis I find that large party rapporteurs may strengthen the negotiating hand of the Parliament.

Interviewees emphasize that these rapporteurs can muster more easily rank-and-file deputies than those from smaller groups, so they represent a large majority in the plenary. Consequently, they are expected to be more successful in conciliation negotiations.

As chairwoman of the ENVI committee, Caroline Jackson came in conciliation thirty-eight times. Twenty-three of these dossiers were entrusted to rapporteurs from large party groups. Her experience confirmed that rapporteurs from large party group have more chances of being successful in conciliation, because of her capacity to reach more consensus among parliamentarians in the plenary³³. She said:

I think that big figures like that [referring to the MEP Karl Heinz Florenz³⁴] are more successful in leading the delegation in the trialogues than somebody that is inexperienced and from small party groups [...], so he knew that if he did a deal in the Conciliation Committee, he automatically could rely on the support of his political group in the final analysis, in the 3rd reading and there wouldn't be surprises.

Rapporteurs from large parties may influence the legislative outcomes, since they have a large perfunctory support of a wide majority of deputies. On the other hand, rapporteurs from small party groups need to gather consensus from a varieties of deputies. In this sense, the influence of the rapporteur as key actor relay simply vis-à-vis other members of the parliament, as Caroline Jackson pointed out:

The reason why it is important that you come from a big political group is that you don't always have to make compromises. If you are a representative [...] of the United Left or the Greens or whatever, [...] in the committee and in conciliation and in the plenary you got find friends from other political groups and you have to alter your opinion in order to reach consensus with a lot of very different people. If you are from a

³³ Under Jackson's chairmanship, Wordfish estimates shows that the joint text was more similar to the European Parliament's position than to the Council common position. Indeed, more than 80% of the successful dossiers for the Parliament were followed by a rapporteur coming from large party.

³⁴ Karl Heinz Florenz was at that time EPP coordinator of the committee for Environment, Public Health and Food Safety and rapporteur of the directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (COD/2000/0159).

major political group, you have numerically big basis, big number of supporters on which to count anyhow. If you do a deal with the Socialists you don't need to go around to the smaller political groups, you have one.

The consensus-based argumentation is preferred by one of the current vice-Presidents responsible for conciliation, Alejo Vidal Quadras, who stressed also the twofold issue of being influential as rapporteur towards the delegation and the Council. Rapporteurs from the Socialist or the People's Party groups are largely recognized as influential by the delegation, because their party groups are numerically consistent. Even the Council indicates rapporteurs from large parties as being more reliable in getting an agreement than rapporteur from small groups. The Council can better rely on the support of rapporteur from a large party because it is more likely that, once the joint text is reached, it will be accepted both by the delegation and the plenary.

For the rapporteur, if he belongs to one of the two big parties, it helps, because you have more capacity of manoeuvre inside the house. In the sense if you have a big group behind you, in the Conciliation Committee you have already a large number of members. And also if the two big groups agree the other members become irrelevant. [...] You are much more influential if you belong to a group of 280 members than if you belong to a group of 50.

The rapporteur's room of manoeuvre as agenda setter and veto player was emphasized by Antonio Cancian, the rapporteur of the dossier on the Regulation on the passenger's right of coaches and buses. He stated:

[Being from the EPP] was extremely of advantage, because if you are a rapporteur and you have the EPP behind you, this is helpful [...]. Not [because of] the bureaucracy, but for the support in terms of votes. [You have] the numbers in the assembly and in the committee, so you need to agree with the liberals or the socialist and you can bring back home the dossier. You are more relaxed. Otherwise, if you are from a small party, with few seats, you must find the agreement, and you have less solidity and ability. When you are from the EPP, the Council, the Commission, the other MEPs have a special care on you.

The power of agenda setting in the delegation is more limited in the case of rapporteurs from small parties. They have fewer resources to find support among the other parliamentarians, because they are more likely to be in a minority position vis-à-vis their colleagues in proposing alternative amendments to the legislation and to face disagreement within the EP delegation. As Rasmussen emphasizes (2005), divergent preferences and information asymmetry may exist between the rapporteur and the delegation. Rather than “a risk of undermining the credibility of the conciliation delegates in future rounds of policy negotiations” (Rasmussen 2005, 1026), the main risk concerns the agent-principal problem between the rapporteur and her own delegation. Rapporteurs from smaller parties may propose policies deviating from what the majority of the delegation prefers. A small party rapporteur is more likely to have less support in the delegation and less credibility in threatening the Council with a parliamentary veto. The head of unit of the EP secretariat on conciliation – Nikolaos Tziorkas – illustrated the example of a rapporteur coming from a small party group. He stated:

[S]ome years ago there was a rapporteur coming from a middle-sized small party, a German from the GUE, the left communist group. And I think he knew the file quite well, but the fact that he was from the small party, for example he was the only member in the parliamentary delegation, of course it didn't help very much in achieving what he had in mind. And in the very end the position of the two bigger parties prevails. [...] It was clear that the two bigger parties wanted to have an agreement and when they saw that the time was pressing and the rapporteur wanted still to negotiate more and more, they said 'now it's enough, now we find an agreement here, thank you very much'.

Charles Goerens (ALDE, LU), rapporteur on the Banana Accompanying Measures (COD/2010/0059), confirmed:

I was put in a minority situation during the Conciliation process. I explained the argument with the support of all the Member of the Development Committee [...]. During the Conciliation process, Members of the other committees didn't vote in the same way. Because it was a package deal, I couldn't agree on this package because I think the result is not in line with the provision of the Treaty.

Rapporteurs coming from small parties have limited credibility to issue threats on the parliamentary rejection. Goerens declared that he would have voted against the joint text, because “the outcome [was] extremely unsatisfactory” (European Parliament 2011a), but the assembly voted in favour of the measure. At third reading, with the exception of the Liberals, the extreme left and the Greens, parliamentarians did not follow the voting indications of the rapporteur. The Popular and the party of the Conservatives and Reformists voted in favour, while most of the Socialists abstained.

In which sense can rapporteurs coming from small party hamper the Parliament? The case of the Banana Accompanying Measures is useful here. According to the rapporteur, the joint text was a “shadow of what was voted on and adopted at second reading” (European Parliament 2011b). The final act, thus, was extremely far away the positions at second reading of the Parliament, while more similar to the Council. Whereas the second reading of the Parliament is likely to be the result of extensive negotiations within the responsible parliamentary committee, other actors are involved in conciliation. If the rapporteur has less support both in the delegation and in the plenary, the other key negotiators try to find an agreement that is much closer to the position of the median voter in the Parliament, therefore sidelining the rapporteur. The parliamentary vice-President, the committee chair as well as the party coordinators may restrain the rapporteur by threatening the acceptance of what was proposed at the second reading and concluded in the trialogues. Rapporteurs from small parties cannot sanction defecting parliamentarians well as big party rapporteurs can. Rather, they are sanctioned by relevant actors. The vice-President responsible for conciliation on the Banana Accompanying Measures, Vidal Quadras, emphasized that he took over the negotiations from the rapporteur:

Goerens [the rapporteur] was impossible, very difficult. At the end we succeeded finding an agreement in plenary and until the last minute Goerens fought to kill it, to kill the agreement. And I was the chair of delegation and I tried to save the agreement. Goerens forced everything to take to the plenary. He made a speech to kill it, I made a speech in favour of respecting agreement. And at the end the agreement won for a large majority [...]. The final coalition that won was a realistic and moderate part of the Parliament

and a more flexible part of Council. This was a coalition that won. And the most demanding part of Parliament and the most reluctant part of Council were defeated.

The ability of the EP vice-President to influence the delegation and the plenary occurs mainly in the conciliation negotiation. He plays an institutional role in order to defend the parliamentary prerogatives. However, other files indicate the importance of another actor: the committee chair. The head of the EP conciliation unit of the secretariat, Nikolaos Tziorkas, was rather explicit in pointing out the involvement of the committee chair in finding an agreement, sometimes bypassing the rapporteur:

*The Greek vice-President [who] at that time chaired the delegation played a secondary role, and the important role at the conciliation [...] was led by the chair of Transport committee, Mr. Simpson*³⁵.

Interestingly, the chairman of the committee on Transport and Tourism, Paolo Costa, said:

The vice-President of the Parliament chairs the process, but the negotiation is concretely done by the committee chair, I did the trialogues.

These statements revealed the idea that once the rapporteur's position is in minority and does not reflect the position of the EP median voter both in the delegation and assembly, other actors, notably parliamentarians in leadership position, may significantly affect the final outcome. This is more likely the case of rapporteurs coming from small party group. These rapporteurs are less able to issue credible threats, because they have fewer resources to sanction defection in the assembly and are less influential than other relay actors.

The theoretical discussion in Chapter 3 emphasizes that rapporteurs and representatives of member states, who may belong to the same national party groups, share cultural and linguistic background. Since uncertainty may be reduced, it weakens the Parliament's bargaining position and the rapporteur's credibility when it issues veto threats. The

³⁵ The leading role of Brian Simpson in the trialogue was confirmed also by the rapporteur, Antonio Cancian.

quantitative analysis in Chapter 5 does not corroborate the hypotheses. Unfortunately the interview-based analysis does not corroborate it either. Caroline Jackson, the chairwoman of the ENVI committee in 1999-2004 period, agreed on the better knowledge they had on the Council's position, when they were from a party represented in the Council, but they do not think that the Council enjoy more success in conciliation as a result of this.

It gives you one way of getting into the Council, I should say this. As British member of the European Parliament going to conciliation I was always in deepest touch with the British diplomats of the British permanent representative in Brussels. If there was something of particular interest of the United Kingdom I was always in touch with the British ministers, it didn't actually matter if they were Labour or Conservative. I'm a Conservative but I was always in greatest touch with the Labour ministers at that time. I am not sure how far that was true of all the nationalities; I think it was true for some of them. Certainly the Germans were in touch with their government and the French with theirs.

6.4.2. The Presidency

The Council relay actor is its President. Being from a newer member state may affect the legislative outcome. The Council President has to understand the extent to which it has room of manoeuvre to reach its priorities. In his broad experience of codecision and conciliation negotiations, a permanent representative of the Council illustrated how the President may use its power.

At some point, when there are only two or three countries bashing on an issue, there is no blocking minority. The clever President interprets this position with a certain degree of flexibility, because in the circumstance these three member states are in the way, the President has a majority [...]. It depends on the situation and on the meetings the Presidency has with the countries.

Caroline Jackson and Charles Goerens complained that such room of manoeuvre is rather limited and does not allow any accommodation towards the Parliament's

positions. Interviews suggest that Presidents from newer member states have fewer capabilities to secure agreement and to play a crucial role in preventing failure.

The mandate was, to some extent, very clear: no accommodating position towards the Parliament. That was very clear, and that was the reason why we were not satisfied [...]. But nevertheless, it was a clear signal to the Council that there was a clear opposition in the parliament.

The Council comes with a close mandate, there is no approach, all the efforts are from the Parliament [...]. The Presidency did well its job, he was very skillful at it. The truth is that he has a close mandate, but he was not flexible. [...] Therefore the Czech Presidency was very responsible because it took the position of the Council majority, he stops moving. I don't criticize the Presidency [...] The Presidency is a very institutional actor, but the whole mechanism of the Council block any movements. He has a very rigid mandate.

However, as I have argued in the theoretical Chapter 3 Presidents coming from newer member states may be more easily manipulated in conciliation and may face higher reputational costs when the delegations fail to reach an agreement. In addition, this President is still learning the negotiating process. Although I do not find quantitatively empirical evidence, Alejo Vidal-Quadras, one of the fourteen Parliament's vice-President, confirmed this interpretation and went even further in explaining the extent to which a newer member state is involved and faces such reputational costs.

There is one psychological component: if it is a new member state that is taking the Presidency for the first time, they take the Presidency very seriously, they want to succeed and they are more cooperative with the parliament than France, Italy or the Netherlands, that they are founding members and they tend to be less emotionally enthusiastic. I remember the Presidency of Slovenia, which is minuscule member. But they were so enthusiastic, so committed because that was their first experience. Imagine what was for them, the Presidency of the council. So they really want to succeed in conciliation and they were so active trying to convince the other member states. And also I suppose that for new member states, maybe if it's a small one, it's easier for them to deal with more European position than for the big member states as France or

Germany that they want their power. Slovenia, Slovakia or Hungary they are ready to be more European.

Because an agreement is judged as a ‘success’ and enhance a state’s reputation, a new member state is more accommodating towards the Parliament. Moreover, a newer member state would be more easily subject to belief manipulation, because it is less experienced. A high-ranked bureaucrat of the Parliament stated:

It’s very important which Presidency you are negotiating with, because they can make the difference. [...] The old member states know how the system works, while the new member states tend to be inexperienced.

The ability to influence the bargaining outcome depends also on the national representation within the European bureaucracy. Newer member states rely on fewer high-ranked bureaucrats in the institutions, they get less information, they have weak network connection with the other national representatives at Council level, and less administrators at top levels. This aspect is strongly emphasized by the former chairman of the Committee on Tourism and Transport – Paolo Costa (ALDE; IT). He argued that:

Lithuania can be the President in office, but it has no civil servant in the Parliament or in the Commission. That is to say the all apparatus [...] Germans or French are everywhere. [...] It is not that the country is important per se, ‘this is important because Germany says so’, it is because Germany is de facto important [...] ten out of 15 Committee’s chairpersons are Germans [...] so each time there is a meeting, they are almost always there. It is obvious that all the others together are more than Germany, but it is difficult to get together all the others.

As a result, a newer member state may be less informed and less involved in informal process of negotiations and it may affect less the legislative outcome in conciliation, because of the paucity of high-ranked bureaucrats and politicians at European level.

6.4.3. Impatience and the strategic use of time horizons

The structural advantage of the Council may vary from case to case. Following Rubinstein’s model, Tsebelis and Money argue that “both player prefer an agreement

today over an agreement tomorrow” (1997, 99). Impatience may drive the negotiating process and legislative outcomes, and even different time horizons. In conciliation timing is a very strict constraint and impatience is not symmetrically distributed between the two delegations. Some actors may be more impatient that a bill will enter into force. Especially because the conciliation phase is time-limited, the Council’s Presidency may be more impatient. The President is in office for a limited period of time and she desires to report positive legislative record at the end of its mandate. Because it must show to be efficient and to have realized those policies established in the six-month agenda, the President would like to speed up the negotiations and to reach significant results. As a result, the Presidency’s position vis-à-vis the key negotiators of the Parliament may be more constrained by the brevity of the term (Thomson 2008, 595), thus benefitting the Strasbourg assembly. In the circumstance in which the positions of the legislators are so far away from each other, the parliamentary negotiators may exploit the different time horizon of the President in order to reach a successful agreement for the Parliament. Costa explained the tricky mechanism he employed for several dossiers when he was chairman of the Transport committee:

In the trialogue three persons should say yea: the Commissioner, the President in office and the vice-President of the Parliament or the chairperson of the responsible committee. Where is the difference? Conciliations expire in the six-month Presidency, while the President of the Parliament has a two-and-half year of mandate. So if we do not agree today, what do I receive? He [the Council’s President] pays the fact that he does not bring back home nothing, he fails, his semester has produced nothing, while I bargain with the next one.

All things considered, when I faced a Presidency contrary to my positions, I have been evaluating to wait the next Presidency. For example, as far as that [dossier] on air security is regarded, we finished with the Greek, instead of the Danish in 2002.

So the Parliament is less impatient to pass the legislation than the Council and it may exploit the negotiation deadlines set in the Treaty. Time is a source of power that key negotiators of the Parliament exploit in the conciliation vis-à-vis the Presidency in order to get outcomes biased in their favour, by threatening to postpone conciliation

negotiations. We are not sure, however, whether this practice was largely adopted also by other parliamentary negotiators, or only by Paolo Costa (who followed twenty-five dossiers).

6.4.4. The electoral cycle

One of the factors increasing the propensity for negotiators to be more demanding and less accommodating is called *audience cost* (Fearon 1994, 1997; Groseclose and McCarty 2001). Negotiations may be biased in favour of one chamber because negotiators have incentives to send signals to a third party (the audience or, as I prefer to refer to, the electorate), even leading to a break-down of the negotiations.

The case of the Working Time Directive I discussed in the previous section sheds some lights on an actor – the electorate – and the signals the Parliament send to it. This was an excellent example of the bicameral conflict between the Council and the Parliament, when the latter is concerned about the electorate. Many interviewees, among which the head of unit for conciliation and codecision in the Parliament, insisted on the fact that the Working Time Directive was “a politically difficult file”, both in the trialogues and in the Conciliation Committee:

It was the first time we had so many trialogues, I don't know how many trialogues we had, seven or eight. Normally we have roughly four. And the Conciliation Committee met at least three times, when normally meets once. So from organizational point of view we did the best we could in order to reach an agreement, but the political difficulties were so big that was not possible to reach an agreement.

The negotiations were difficult due to the impact the public opinion and the electorate had along the entire legislative process, which substantially determined the negotiation outcome. We will consider two issues linked to the electorate.

The first issue concerns the internal cohesion of the party groups. The content of the draft directive applied to many categories of workers, especially in the health sector, which was the most involved category. So, trade unions of the health sector, one of the most powerful lobbies all over Europe, “were on a war footing”, as remembered Donata Gottardi (PES, IT), a former MEP. The rapporteur – Alejandro Cercas (PES, ES) –

described the situation between the European Parliament and the public opinion as extremely intertwined. Trade unions of doctors were able to exercise influence especially on their main supporters at political level and to break up the cohesiveness of the European People's Party. He stated:

I got a lot of votes from the right-wing deputies, because doctors in Europe were against to this rule [the on-call time]. [Since] many deputies felt trapped by trade unions across Europe, voted for my report, and the right [the EPP] broke up. [...] The fracture in the right-wing party of the Parliament was because there was a very singular element in the Working Time Directive [that is] the relationship between physicians and deputies of the European right [was breaking up]. Doctors are very important in the political life of countries.

This leads us to the second issue. The ability of the trade unions to exercise pressure on the parliamentarians was facilitated also by electoral deadlines. The conciliation of the Working Time Directive took place few months before the 2009 legislative turn. At the end of the electoral period deputies want to be re-elected and desire to have a successful legislative record for their constituencies. Negotiators are fraught with impatience to adopt a successful legislation. In the case of the Working Time Directive elections change the parliamentarians' voting behaviours, by being more sensitive to the electorate: election-minded politicians are ultimately concerned about the outcomes of the conciliation. MEPs' priorities changed as the European elections were approaching, according to Tziorkas Nikolaos, head of the conciliation and codecision unit in the Parliament. He said:

On our side, the whole conciliation took place few months before the legislative turn, before the European elections. So the politicians have the tendency to think more in political than in legislative terms. In the sense that, if we reach a compromise now with the Council, so this will look very very bad for our citizens, that are going to vote for us in a few months.

At the same time, Cercas, the rapporteur, emphasized what the risk deputies would have taken in the short-term period, that is not being re-elected.

Proximity to the elections leads chamber's decision closer to the public opinion

It was crucial we were at the end of legislature. I knew that as we were approaching the end of the term, the deputies were more sensitive to public opinion. [...] A lot of deputies are hunting up votes. The legislative process takes into consideration more the citizens when the elections are close than when they are far away.

Members of the Parliament would have preferred the current situation – the status quo – rather than being sanctioned because of a legislation that would not have produced benefits for their voters. Bargaining before an audience was an incentive for parliamentarians not only to send signals about Council's type, but also about their own type of politicians. Consequently, being at the end of the electoral cycle has increased parliamentarians' disagreement value and the likelihood of negotiations' breaking down, as the rapporteur clarified:

This proposal for a directive is therefore worse than the directive currently in force [...] Elections become a strategic issue for a deputy, especially for a case that has received so much publicity. [...] For example, all the Spanish deputies, 64 deputies, vote with me. In Spain magazines and newspaper publish what every deputy has done. Everyone voted with me, otherwise it would have been a scandal.

In his speech at 3rd parliamentary reading debate Cercas went further in trying to explaining the strong connection between parliamentarians and citizens:

We often wonder why citizens are disaffected with our institutions, our elections or our political agenda. Today we have a clear explanation: you just have to look at the enormous gulf between the Council's proposals and the views of 3 million doctors and all of Europe's trade unions, representing 150 million workers. I hope you do not see this – Parliament's opposition – as a setback, but rather as an opportunity to reconnect with citizens' concerns, so that people can see that when we talk of Europe's social dimension, we are not just uttering empty words or making false promises.

The Working Time Directive sheds light on the, otherwise ignored, impact the electorate may have on the final legislation. In the negotiations the pressure of the electorate was particularly high, because issues on working time were salient for the

public opinion. However, we did not find evidence that audience costs would have increase parliamentary success or not when the Conciliation Committee reaches the agreement. The reasons lie on the fact that not every dossiers is likely to be subject salient to the electorate, thus increasing audience costs for key negotiators. As Paolo Costa – chairman of the Transport and Tourism committee from 2003 to 2009 – pointed out:

In the Transport committee issues are not politically high sensitive. I understand that for other dossiers it was risky [...] that is to say you could be blamed in newspaper the day after [...]. For example, we approved a regulation extending liability. In the maritime package there was liability of carriers of passengers. It is entering now into force, so it was not applied to Giglio's affair only because it didn't come into effect. It would have increased a lot of money for castaways. It was an epic battle, very important issues, but it was not important for public opinion: [it would have produced] no vote shift.

6.5. Personality

Many interviewees insisted on the negotiators' skills as a means of influencing the legislative process. They comprise the ability of making “threats, commitments, or concessions, in deception or clarification, in gaining information about the opponent” (Snyder and Diesing 1977, 194). The influence of bargaining skills on the final outcome has not drawn enough attention, primarily because of the difficulty in measuring such skills (Bailer 2004, 2006; Tallberg 2008). However, it is worth noting that key negotiators emphasize some skills for both parliamentarians and member states representatives. The high-ranked bureaucrat of the parliamentary unit on Conciliation and Codecision stated that skills matter.

It's very difficult to say [who wins and who loses in the Conciliation Committee], because there is no unique answer to find. It depends very much on the individual setting [...]. The most important for me is not from which party the rapporteur is coming, but who is the rapporteur. Because you have people that are more able to

negotiate, people that know better the file than others, independently from which party they come.

Caroline Jackson illustrated the example of Karl Heinz Florenz to focus on several negotiating skills a key actor should develop: networking with lobbies and interest groups, experience and competence. She said:

He had a big political party behind him, he seemed to be the voice of the industries and consumers, he knew the file very well, he was the former chairman of the environment committee and I think that big figures like that are more successful in leading the delegation in the trialogues than somebody that is inexperienced, because it is a very technical process.[...] He was a German, because Germans are pioneers in environmental legislations. Being in a rich society we are able to put into practice what environmental legislations propose.

Marit Paulsen (ALDE, SE), who was the rapporteur of the 2002 proposal for a regulation on animal by-products, insisted on skills based on mutual trust and empathy with the other parliamentarians:

All the compromise was not based on trading – I give you something and you give something – but on mutual respect, no matter you come from, which party you are from. The team – rapporteur and the shadow rapporteurs – worked together as a team during this 2 and half years. This helped us to reach a huge majority and to raise our voice against the Commission and the Council. Especially thanks to several informal meeting, in front a coffee, so we exploited all the time in order to reach compromise and we took a lot of time for discussions.

Also within the Council, key players need to develop bargaining skills to be successful. A Council's deputy permanent representative stressed.

In the end, a bargaining depends a lot on the person's quality and the country. That is, you are a good negotiator, no matter you come from a new member state, if you bargained in thousands and thousands of bargaining table before joining the Union. You are able anyway.[...] In my experience, personality counts very much, because when you reach the conciliation, you have already explored several exit strategies and

possibilities. At that point, in short, [the result] depends on the insistence, perseverance, motivation [of the President].

Interviewees shed some light on the endogenous resources negotiators may rely on: individual characteristics, bargaining strategies, education and experience. These conclusions should be taken with caution. Evidence from studies on bargaining skills is contradictory, unsystematic and limited to bargaining within the Council (Bailer 2004, 2006; Moravcsik 1998; Tallberg 2008).

6.6. Cohesiveness

In Chapter 3 I discuss on cohesiveness and how policy stability and the winset of the status quo increase as the cohesion of a collective veto player increase. However, to determine both the wincircle and the m-cohesion implies a speculation on the location of the status quo. On the contrary, interviews allow to gather information on the Parliament's and the Council's cohesiveness, and, most importantly, they highlights the reasons why cohesion affects the legislative outcome.

Negotiations to reach a joint text are largely held in trialogues, but the whole Conciliation Committee matters. The two delegations are involved in an informal navette system. Key negotiators shuffle back and forth between the trialogues' and the delegation's rooms in order to update parliamentarians and state representatives on the negotiating developments. Conversely, the relay actors verify whether the proposal may be accepted, rejected or modified by their own delegations, and then they come back to the trialogues' room to update the other chamber's representatives. At this juncture, being a cohesive chamber may help a successful resolution of the deadlock. Interviewees emphasize the benefits from having a strong supporting majority in one's chamber. A high representative of the Council affirmed that:

You must rely on your unity, in the institution, because it is easy, also in the Council, to have different positions. But, [...] one tries to undermine the unity of the party group, by presenting solutions to a political group and not another [...]. In this way you [the Council] attempt to unhinge the counterpart's cohesiveness.

Like in the Council, reaching a large majority in the Parliament's delegation may resolve. Marit Paulsen, the rapporteur of the regulation concerning health rules on animal by-products, described:

This [cohesiveness] helped us to reach a huge majority and to raise our voice against the Commission and the Council.

Even the former chairman of the Transport and Tourism committee – Paolo Costa (ALDE, IT) – agreed on it:

Of course the power of parliament was strong if and where you have built strong majorities [...].

Cohesiveness is, in the interviewees' opinion, a key factor determining conciliation outcomes and the success of either the Parliament or the Council. The more cohesive a delegation is, the more successful it is in the Conciliation Committee. Strong internal cohesion leads to success. Consequently, a key negotiator of the Council explained that one of the main goals is trying to break the counterpart's unity, through informal and secret meetings between one representative and less cohesive parliamentarians. Some *attaches* may establish contacts with MEPs in order to find an alternative majority, in contrast with the official proposal presented in occasion of the informal navette system illustrated above.

Empirical evidence supports König *et al.*'s (2007) findings that cohesion affects conciliation outcomes. Although König *et al.* (2007) find that higher parliamentary cohesiveness diminishes Council's and increases Parliament's success rates, my interview-based analysis investigates on an important tactics key negotiators have. Both Council's and Parliament's representatives may threaten the counterpart's cohesiveness to extract concessions.

6.7. The role of the Commission

Let us consider the Commission. The Commission may substantially shape the negotiations throughout the legislative process and even at conciliation. Although the Commission has no right to vote in the Conciliation Committee, it may influence

negotiations in the conciliation by rejecting parliamentary second reading's amendments. In Chapter 3 I emphasize that the Commission, indeed, may reject Parliament's amendments in order to signal its own preference and require unanimity voting in the Council. Moreover, the Commission may successfully extract concession by threatening to withdraw the proposal. As Cercas pointed out, the Commission is an informal agenda setter:

The Commission does not play neutrally; the Commission opposes and helps in order to get unanimity in the Council. If the Commission rejects the Parliament's position, the Council cannot approve it by majority, but by unanimity. So, the Commission plays very hard. [...] The Commission has a very active role. The Commission can say "the conciliation is over", because they withdraw the legislative proposal. The Commission can stop the match at any time.

The role of the Commission is stressed also by König *et al.* (2007). The Commission may be able to exercise influence, since it enjoys informational advantages, also thanks to its broad network of non-legislative actors, and it aims at pursuing its political agenda (Pollack 1997). But, aside its mediating role, the Commission is directly involved in law adoption and implementation. Caroline Jackson – former ENVI committee chairwoman – illustrated very well these informal resources at the disposal of the Commission, in many occasions, both to find compromise and to pursue its own agenda.

I want to emphasize in the trialogues the helpfulness of the Commission.[...] But actually was the Commission, the people who want to get the legislation through. It's their baby and they want their baby through. And the Commission was particularly helpful on the environment issues. They gave us information about what the Council was thinking, they went in the Parliament delegation, explaining things to members where were not up to speed, what was going on.

Interviewees, both from the Council and the Parliament, suggest that in many dossiers the Commission's agenda setting has indeed affected bargaining outcomes, by exploiting the asymmetrical distribution of information between the Council's and the Parliament's delegations, and by elaborating compromise policy in the legislative

proposals [Pollack, 1997: 126]. The Commission played a very active role, since it had no neutral position, but clear priorities. Both a permanent representative of the Council and Costa emphasized this position.

The Commission is a mediator, but its position is on one side, it proposes.

Loyola de Palacio determined every trialogues, in the sense that she said what we should do and there were no room of compromise from what she proposed. It's clearly visible that if the Council and the Parliament are stuck, where the Commission is, it decides. In the case of Loyola de Palacio, she decided all the times, otherwise there was no agreement.

Interestingly, even though limited to specific bills, Paulsen and Cancian, the rapporteurs of the regulation on animal by-products and of the passengers' rights, respectively, went even more explicit.

The Commissioner, David Byrne, was very committed to reach this agreement. The White paper they produced outlined the crisis and the actions to solve it. [...] They were proactive and they were always around to help for the legal text.

You have the Commission's solidarity for 95% of the process, then at the end also the Commission becomes a political actor, so it wanted to have results. It abandoned us. The Commission wanted an agreement [...]. They suffered a lot because they wanted a regulation for each [means of transportation]. It's a political message they would like to carry on. [...] The commissioner has to produce some results, not only technical ones.

The Commission matters in the decision making when it takes the side of one institution. Many interviewees stressed the direct role of the Commission in the negotiations, by exerting pressure and persuading other institutions to take its view. Traditionally, the literature on EU politics (Moravcsik 1998; Tsebelis and Garrett 2001) considers the Commission and the Parliament as the most pro-European institutions. These two 'supranational institutions', indeed, are the beneficiaries of more power at EU level. The Council, on the contrary, is traditionally conceived at the other side of the pro-against European integration dimension. Even in the day-to-day decision making

the Commission is likely to take the side of the Parliament because of its integrationist stances, as the interviewees emphasized. Vidal-Quadras pointed out the similarity of the Parliament's and the Commission's view in the majority of the twelve dossiers he followed as vice-President of the Parliament.

And always they [i.e. the Commission and the Parliament] set up common instruments, European common lines of action and common policies. Then this, on one side, goes into conflict with some sectors of interests and also with the natural wish of the states, not to give up too much of their sovereign competences. And then the European Parliament, as general rule, takes the side of the Commission. So in general there is an alliance between the Commission and the Parliament in order to defeat resistance in the Council or interests from some sectors or stakeholders. Of course this is much more complex, because some members of the Parliament also try to defend interests of certain sectors, industrial and economic. And also some members of the Parliament are very receptive to their governments, when they press them not to support certain elements of the legislation that governments consider that go too far in the integration.

More specifically, Caroline Jackson said that, in the thirty-eight dossiers she was chairwoman of the Environment Committee, the Parliament benefitted from the support of the Commission, and it was, therefore, more successful.

The Commission has always been very close to EP, in a good relation with the European Parliament, because they encourage each other to move towards stronger European legislations.

Even a representative of the Council, who followed three dossiers at conciliation, emphasized the Commission's bias in favour of the Parliament.

It [i.e. the Commission] is always on one side, especially with the Parliament, in the trialogues, in conciliations, in all negotiations between the Council, the Parliament and the Commission. Usually, on many issues, at least on the institutional ones, there is a Parliament-Commission axis [...]. Obviously, the Commission is a mediator, but then we know that is closer to the Parliament, it is normal.

While some interviewees argued that there had been a close connection between the Parliament and the Commission, because of their common interests in favour of European integration, a high-ranked bureaucrat of the Parliament asserted that the Commission follows primarily its own policy agenda, which may not necessarily overlap with the Parliament's.

There if you want I see a change. At the beginning [i.e. when the Treaty of Amsterdam was enacted] the role of the Commissioner was much more important, now it's not so important. [...]. Now it has become a very political Commission that takes into account [the preferences of] the Council and [it] is careful not to upset it. The Commission works together with the Council. [...] And if they [i.e. the Commission] have a dilemma which position to support I would say they will opt for the Council, while before they were much more defending the Parliament. And this could change the final outcome.

He continued by making a reference to the Working Time Directive, and stated:

From the Parliament's point of view the Commission was not so helpful. The Commission was not trying to make a real compromise proposal, but was very much defending the Council's position. We had expected a bit more help from the Commission, not necessarily that it would have helped, but you never know. There was at the end of the negotiations a final compromise proposal from Mr. Cercas, which was beyond [...] what he had always maintained in principle, in order to get an agreement and we needed a little bit the help of the Commission to work on this proposal and to support it. They didn't.

For the Commission, the third way of getting involved is through implementation. As I discussed in Chapter 3, the Commission's involvement in implementation varies across measures and mechanisms. When a measure prescribes implementation via national administrations, the Parliament and the Commission rely on legislative oversight of implementation (Franchino 2007). They therefore are more recalcitrant vis-à-vis the Council. The opposite occurs when the Commission is the main implementer. The analysis in Chapter 5 corroborates the expectations that conciliation outcomes are more

likely to be biased in favour of the Parliament in the case of measures with greater involvement of national administrations

However, my interviewees did not notice if either the Parliament or the Council is successful in different implementation paths. The only contrarian's opinion was that of Costa, chairman of the Transport committee, who understand the different implications when the act has to be implemented. He did not consider how implementation may affect the legislative outcome, though.

I enjoyed more the negotiations in case of regulation, because I knew we were putting on the legislation's thinking cap on. On the contrary, with directives you never know when they [i.e. the member states] implement them [i.e. the directives]. For example the directive on railways. There is an infringement procedure, I think, for 25 out of 27 countries, so we were wasting time. [...] So, personally, I tried to push for regulations, to having more.

Conclusion

This analysis offers interesting contribution to the study on the Conciliation Committee. It has its own benefits as well as its drawbacks.

The qualitative analysis nicely illustrates the working of some variables affecting legislative outcomes. First, disagreement value was tested in case of negotiation failure. Interviewees confirmed that disagreement value allows investigating that the Parliament is more likely to reject the counterpart's proposal when it considers more beneficial the existing legislation.

Second, consider the institutional framework. The Treaties place limitation to the negotiators' moves, by favouring either the Parliament or the Council. Interviewees emphasized how article 290 of the Lisbon Treaty may strengthen the parliamentary power. However, since this prescription changes the former comitology procedure, the Council is still in a process of learning and adaptation to the new rules. Consequently, this may facilitate the Council in the short run period from the entry into force of the Lisbon Treaty.

Third, consistent with my expectation in Chapter 3 the qualitative analysis illustrates how rapporteur coming from big party may strengthen the successfulness of the Parliament, especially thanks to her capacity of gaining support in the assembly (hypothesis 5b).

Fourth, the qualitative analysis better fleshes out the connection between newer Presidency and low performance of the Council at conciliation, in terms that I do not emphasize in Chapter 3 (hypothesis 8). Interviewees stress that only experienced member state knows how much to put the counterpart against the ropes. The newer Presidency wants to build a good reputation in the Council and the Parliament in order to accomplish its agenda and avoid legislative failures.

Fifth, negotiators agree on the political role played by the Commission and partially confirmed my expectation in Chapter 3. The qualitative analysis provides an extensive description of the Commission both in its informal and formal role (hypothesis 13). Interviewees shed lights on the multiple tasks and priorities this institution has, to understand how Commission may take one legislator's side, especially the Parliament, to achieve its agenda, to be a mediator and to enact oversight on implementation.

Finally, the qualitative analysis considers the bargaining process in broader terms. The analysis enriches the explanation of who gets what in conciliation highlighting the role of three elements: the electoral cycle (hypotheses 9a), the rapporteur's personality (hypothesis 10) and the cohesiveness of the chamber (hypothesis 11). First, interviewees prefer explanations based on the impact the electorate have on the legislative outcome by exerting pressure on parliamentarians that have to face elections in short terms, rather than reputational incentives at the beginning of the mandate. I am not sure whether this is the case for every dossiers with salient issues for the audience, though. Second, negotiators confirm that the ability of the rapporteur to gain more in conciliation depends on her personality and bargaining skills. Third, cohesion matters in conciliation and key negotiators make use of tactics in order to exploit this mechanism. The analysis reports some drawbacks, because I cannot confirm several hypotheses. First, the institutional factors, namely the voting rule (hypothesis 2), the second version of the codecision procedure (hypothesis 3) and the size of the assembly (hypothesis 4), were not tested, because no one experienced dossiers with these features. Second,

interviewees cannot notice the dynamics of veto threats, when rapporteurs either come from larger parties or are in a leadership position (hypotheses 5a, 6a). Negotiators, indeed, refer to these features as being part of the undistinguished category of bargaining skills and personality of the relay actors. Third, even the hypothesis on implementation (hypothesis 14) is tested only superficially.

In conclusion, the qualitative contribution this Chapter offers does not provide to test alternative causal mechanisms, but rather illustrates the ways in which some parts of the factors operate and shape the legislative outcomes. In addition, it provides an empirically rich picture of the dynamics of negotiations occurring at conciliation. In this sense, it provides a bridge between the theory and the large-n empirical analysis.

7. Modelling and analysing belief manipulation in conciliation

Bargaining within the Conciliation Committee and the last legislative stage at third reading are strictly intertwined. The Council and the parliamentary delegation are convened to reach an agreement. When they design the joint text, they need to reach a compromise: they want to achieve their own objectives, but at the same time they know that the assembly votes such text under close rule. The Council and the parliamentary delegation need to take into account this third actor if they want the legislation to be enacted. However, according to formal rules analysed in the second Chapter, the delegation represents the Parliament in the Conciliation Committee. It knows the policy preferences of the assembly and may attempt to reach a more successful compromise for the parliamentary side vis-à-vis the Council.

In this Chapter I introduce how belief manipulation drives the conciliation outcome. I develop a model of incomplete information that analyses decision making in the last two stages of the codecision procedure. The model starts by assuming that either the pivotal member state of the Council or the median delegate chooses a proposal in the policy space. The opposite delegation chooses whether to amend or not the proposed bill. After the approval of the joint text, the Parliament votes under closed rule and chooses either to accept or to reject the joint text.

In particular, the final outcome depends on the information asymmetry among the actors. The delegation and the Parliament have complete information about the Council's preferences. On the contrary, the Council is not sure about the Parliament's type, but it has complete information about the parliamentary delegations' preferences. In the first section I will illustrate the main assumptions, actors and payoff as well as the sequence of moves, leading to the policy outcomes. Then I will explain the four policy outcomes, given the actors' preference distribution. In the third section, I will explore

the incomplete information of the Council and how correct and incorrect beliefs on the Parliament's type affect outcomes. The fourth section is devoted to belief manipulation. Finally, on the basis of this simple feature of the model, I derive interesting predictions about policy outcomes, which will be then contextualized in an analytic narrative of the Telecom Package in the last section.

7.1. A model of conciliation: players, action, information and assumption

Actors. Assume the three relevant actors have ideal points in the last stage of conciliation: the Council (c), the parliamentary delegation³⁶ (d) and the Parliament (p). As I discuss in Chapter two, once the Conciliation Committee is convened, the Parliament's delegation and the representatives of the member states are in charge of reaching the joint text. Differences in the composition rule, in the voting rule³⁷ and even in the amendment rule of the two delegations have been proved to bias the final legislative outcome. Nevertheless, it does not come at the expense of accuracy to treat the three actors as sharing equal bargaining power in the Conciliation Committee.

Their most preferred policies are located in one-dimensional outcome space $X = \mathbb{R}$, which may represent any dimension of conflict. The actors' position on the bargaining space may change according to their proximity to the exogenous status quo or not. Actors have Euclidean preferences, with a single-peaked utility function for their own ideal point in the bargaining space. As a consequence, I do not assume that actors are distributed along the more-less integration continuum, as the literature on EU legislative politics does (Gabel and Hix 2002; Garrett and Tsebelis 1996; Berthold Rittberger 2000) or along the left-right spectrum, as the oldest recognized national cleavage.

³⁶ In this Chapter I refer to the parliamentary delegation as simply the "delegation", while the Council delegation is the "Council".

³⁷ I do not consider whether the Council decides under qualified majority voting or unanimity. In Chapter two I discuss how the core of the Conciliation Committee increases if the Council votes under unanimity, increasing its bargaining power vis-à-vis the Parliament. This expectation has been corroborated in Chapter 5 where I find that unanimity negatively affects parliamentary bargaining success.

Actions. The sequence of moves in the model of Conciliation entails two legislative stages. The first bargaining stage occurs within the Conciliation Committee and then it proceeds to the third reading of the Parliament as second legislative stage.

In the first legislative stage the model shares a core of assumptions with the formal work of Rubinstein's (1982) simple non-cooperative model of bargaining. The pioneering Rubinstein model requires that players alternate in making an offer on the proposed bill that the other side can accept or reject. If the offer is rejected, the other actor can then make a counteroffer the first actor has to accept or reject. Each offer and response is one round of bargaining. I assume Conciliation bargaining as alternating offers and counteroffer from the delegation and the Council in order to reach a compromise. Unlike Rubinstein's model, my model has a finite horizon since the legislators must reach an agreement before a strict deadline. Article 294 Treaty of Lisbon states that: *"if, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted."* Moreover, in conciliation the temporal aspect is not so fundamental that delegations are impatient and prefer reaching a bargain sooner than later. We also know that in practice the Council and the parliamentary delegation have to bargain in a rather limited and restricted time, most of the times during a night, and several rounds of bargaining alternate as quick as possible. It is reasonable to assume, then, that discount factor does not influence their utility functions.

The second legislative stage is played out at the third reading of the Parliament. The assembly needs to accept or reject the joint text the two delegations have agreed on in the previous stage. If the Parliament accepts, the joint text is enacted, otherwise the legislation fails.

Payoffs. Actors have quadratic utility functions that decrease with distance to the status quo. Let sq denote the status quo. If each actor has an ideal point i , she prefers the closest bill, either a proposal \hat{b} or the status quo, to its ideal policy. This quadratic loss function captures the distributive component that the actor's utility function decreases when outcomes are farther from her ideal point, as illustrated in the following equation.

$$\begin{aligned}
U_i(sq) &< U_i(\hat{b}) \\
\text{or} \\
-(sq - i^*)^2 &< -(\hat{b} - i^*)^2
\end{aligned}$$

Therefore, the actor i accepts \hat{b} if she gains more utility from it than from the status quo. In the case of the parliamentary delegation, its utility function is represented by the simple formula in equation below, which highlights that the delegation would prefer the adoption of the bill if it gains more benefit than in the case of the sq .

$$\begin{aligned}
U_d(sq) &< U_d(\hat{b}) \\
\text{or} \\
-(sq - d^*)^2 &< -(\hat{b} - d^*)^2
\end{aligned}$$

Two factors could work in defining the delegation's proposal: its complete information on the Council's and Parliament's payoffs. The delegation considers that both the Council and the Parliament will accept the bill if they receive more payoff from the proposal than from the status quo. Similarly, the Parliament has the following utility function:

$$\begin{aligned}
U_p(sq) &< U_p(\hat{b}) \\
\text{or} \\
-(sq - p^*)^2 &< -(\hat{b} - p^*)^2
\end{aligned}$$

As it will be better explained below, the Council's utility function is more complex, though. Two different types of preference distribution determine an important feature of the model. Under the first type of preference distribution the Council has complete information and its utility function follows the standard formula:

$$\begin{aligned}
U_c(sq) &< U_c(\hat{b}) \\
\text{or} \\
-(sq - c^*)^2 &< -(\hat{b} - c^*)^2
\end{aligned}$$

Under the second type of preference distribution the Council has incomplete information on the Parliament's preferences and this must be incorporated in the Council's utility. First, the Council does not know which Parliament is confronting, either a strongly (p_S^*) or a moderately recalcitrant (p_M^*) Parliament. Second, different types of the Parliament produce different payoffs for the Council.

The incomplete information on the Parliament's preferences defines the Council's expected utility, such that:

$$\begin{aligned}
U_c(sq) &< EU_c(\hat{b}) \\
\text{or} \\
-(sq - c^*)^2 &< -\{\pi U_{c,pM} + (1 - \pi)U_{c,pS}\} - c^* \}^2
\end{aligned}$$

Where $U_{c,pM}(\hat{b})$ is the Council's utility it receives from the proposed bill, given a moderately recalcitrant Parliament, while $U_{c,pS}(\hat{b})$ is the Council's utility it receives from the proposed bill, given a strongly recalcitrant Parliament.

I will use the utility functions of the three actors involved in the last stages of the codecision procedure as well as their ideal policies to predict the conciliation agreement and the codecision outcome. In doing so, I consider all the possible configurations of the three actors on a given bargaining dimension.

Assumptions of preference configurations. In the last stages of the codecision, the three relevant actors – the Council, the delegation and the Parliament – may adopt sixteen possible preference configurations. Although the status quo may be located everywhere along the bargaining space, it is unlikely to be located in between two actors, otherwise negotiation will break down. Indeed, if the status quo is between the Council and the

delegation, the Conciliation Committee will fail, while if the status quo is between the delegation and the Parliament, legislation will be discharged by the plenary at third reading. I will disregard these distributions of preferences, because mechanisms of belief manipulation cannot occur³⁸. Moreover it is unlikely that legislators would even proceed to conciliation in these circumstances.

I derive two trivial conclusions from the actors' location. First, symmetric configurations (e.g. $sq < c^* < d^* < p^*$ is symmetric to $p^* < d^* < c^* < sq$) are not

³⁸ Codecision may fail because negotiation breakdown in conciliation or third reading rejection. Differences on the rejection round depend on where the status quo is located. Whether the status quo is among the Council and the delegation, the winset of the status quo is empty at conciliation level and no joint text may be agreed on. Whether the status quo is among the delegation and the Parliament, the winset is empty at third reading level and the joint text will be discharged. The preference distribution $[c^* < d^* < sq < p^*]$ exemplifies the circumstance of the joint text rejection at third. At conciliation, the delegation and the Council may find an agreement in the interval $[2d^* - sq, d^*]$. The bargaining outcome is biased in favour of the delegation because of its closeness to the sq . Having agreed on the joint text, the bill should receive the approval of the parliamentary plenary. But, the Parliament's preferred set of bills are within the interval $[sq, p^*]$. As a consequence, any joint text approved in the Conciliation Committee does not receive the parliamentary confirmation, because the Parliament will always prefer the status quo to the Joint text. How is it possible that the joint text will be rejected by the Parliament? Why does the delegation bargain for a joint text, if it knew the bill would be discharged? The baseline assumptions of the delegation's perfect information and representativeness still hold. However, contingent factors (as parliamentary turnover, public opinion pressure, demonstration of interests groups, international conventions and agreements with third countries, new scientific discoveries or economic shocks) may have changed the scenario and the preferences of the actors in the meanwhile. The Biotech directive (COD/1988/0159) illustrates the case. After the Conciliation Committee agreed the joint text, the Parliament vetoed at third reading. Was the delegation a runaway agent? Was it unaware of the Parliament's preferences? The reasons for the parliamentary refusal was that deputies were subject to strong pressure by environmental interest groups and pharma lobbies, occurred on the voting day (1st March 1995) and in the days before, in order drive the MEPs' voting behaviour.

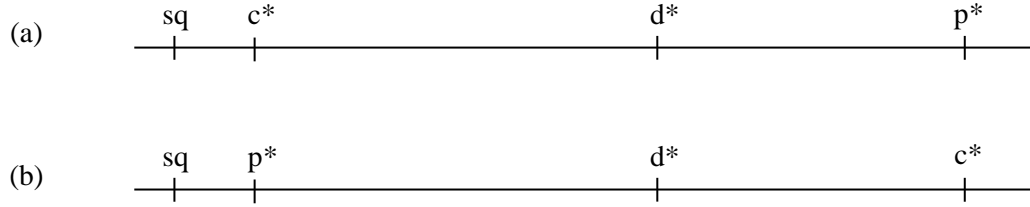
In the three models where the conciliation fails, the status quo lies in between the Council's and the delegation's ideal policy. The only compromise solution would be the maintenance of the status quo, either an existing European legislation or national laws. There is here no choice for the legislatures to find an alternative agreement to the status quo. The conciliation or the third reading fail because the winset of the status quo is empty and there is no alternative policy set being able to change the existing legislation (Tsebelis 2002).

considered because they are redundant. Second, as Rasmussen (2005, 2008) shows the self-imposed rule of delegation's representativeness by the Parliament is operating well without the risk of a runaway behaviour. Since the delegation bargains on behalf of the Parliament, I assume that the delegation is located closer to its parent chamber than to the Council. Consequently, $|p^* - d^*| < |p^* - c^*|$.

Information. As I mentioned above, my model of conciliation is based on the premise that under certain circumstances the EU legislators – the Council and the Parliament – do not have complete information. Since the Council is fully represented and each member state has its own delegates (either the Minister or the permanent representatives), the Parliament's delegation has full knowledge about the Council's preference. By contrast, the Council is not sure about which type of Parliament is facing. The Council is sure whether the Parliament is recalcitrant or accommodating on the Council's proposals vis-à-vis the status quo, but it is uncertain whether the Parliament is strongly or moderately recalcitrant. In other words, assume that the Council is closer to sq than both the Parliament and the delegation. The Council can infer from the proposals of d that the Parliament is more reformist than itself. Uncertainty about the location of p will dissipate. These distinctions imply clear definitions of the preference distribution of the Parliament, its delegation and the Council. At first step, consider how close the Council is to the status quo: its ideal policy might be the closest point to sq or not. In the former case with the preference distributions, $sq < c^* < d^* < p^*$ or $sq < c^* < p^* < d^*$, the Parliament is accommodating, since it would prefer any Council's proposal than the status quo. In the latter case with the preference distribution, $sq < p^* < d^* < c^*$ or $sq < d^* < p^* < c^*$, the Parliament is recalcitrant, since it would prefer whichever bills rather than the Council's ideal policy. This distinction is rather trivial and, as my analysis will shows, the Council may infer the Parliament's preferences from its own position and the delegation's proposal.

Figure 7.1 shows the case when the Council is certain (a) and uncertain (b) on the Parliament's type.

Figure 7.1: Certainty and uncertainty of the Council



However, when the Council has the rightmost position along the bargaining dimension of conflict, it is uncertain over the types of recalcitrant Parliament is dealing with: moderately or strongly. The Council believes the Parliament is moderately recalcitrant with probability π if $p^* > d^*$, while it is strongly recalcitrant with probability $1-\pi$ if $p^* < d^*$.

Solution concepts. In the two stages of the game, policy outcomes results from the combination of proposals and counterproposal, given the payoff actors realize. The intuition underlying these preference distributions is straightforward. The distance between the ideal points reveals the degree of compromise required to strike the deal. An actor whose ideal point is far from the closest actor to the sq will have less bargaining power, because it will accept any policy rather than the status quo that the other actors offers.

No matter of which scenario apply, in context of bicameral bargaining on one-dimensional space is easy to deduce that the final agreement should be in between the two legislators' ideal policy (Tsebelis and Money 1997). Consequently, the approved bill shall be a policy located in between the delegation's and the Council's ideal policy, bounded by the ideal point and the acceptance threshold of the closest actor to the status quo.

$$Outcome = [\min(c^*, p^*, d^*); 2\min(c^*, p^*, d^*) - sq]$$

The result of this approach takes into account also the Council's incomplete information, because of the supposed ideal point of the strongly and moderately recalcitrant Parliament. This model enables us to make prediction about the legislative

outcome in Conciliation Committee, since is driven by the Council's position, preference and beliefs it has attached to the Parliament's type.

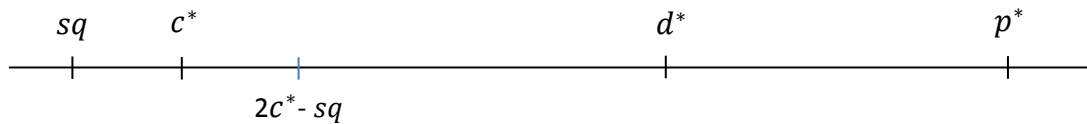
Let us analyse the four scenarios with the respective legislative outcome.

7.2. Four distributions of preferences

7.2.1. The Council's advantageous position

Extreme position of the Parliament (or $sq < c^ < d^* < p^*$)*

Figure 7.2: Extreme position of the Parliament



This preference distribution represents the traditional cleavage in the study of EU politics: actors are along the European integration dimension (Gabel and Hix 2002; Garrett and Tsebelis 1996; Hix, Noury, and Roland 2007; Moser 1996; Scully 1997a, 1997b; Tsebelis and Garrett 1997, 2000a). The Parliament is more pro-integration than the Council. The status quo, if the legislation is not adopted, is less integrationist than the Council.

The Council is in a strong bargaining position, because it is the closest actor to the status quo and is enforced by the highest disagreement value. Since the political composition of the delegation reflects the parliamentary assembly, the Council knows that the Parliament and its delegation are located close to each other and it is certain that the Parliament is accommodating. Uncertainty about the location of p hence becomes irrelevant. As a result, the Council's proposal is $\hat{c} = c^*$.

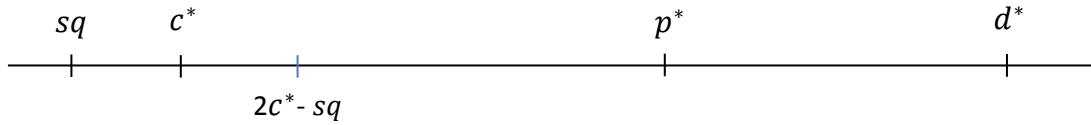
The delegation, knowing the Council's position, may amend the \hat{c} up to $2c^* - sq$, but the stronger bargaining power of the Council will force the outcome towards its ideal policy. Therefore, the Council and the delegation will bargain the joint text, located in

the interval $[c^*; 2c^* - sq]$. The Parliament is forced to accept, because the new proposal gives higher payoff than that of the status quo. To sum up, the conciliation outcomes will be in the winset:

$$Outcome = [c^*; 2c^* - sq].$$

Extreme position of the delegation (or $sq < c^ < p^* < d^*$)*

Figure 7.3: Extreme position of the delegation



In this preference configuration, the Council is still in a powerful bargaining position, because it is the closest actor to the status quo and can infer the Parliament's type as accommodating. Although the delegation – the furthest actor from the status quo – has to limit its amendments to take into account to the Parliament's preferences, that is to say, up to $2p^* - sq$, the policy outcome is biased in favour of the Council. The Council will propose its ideal policy, $\hat{c} = c^*$, since it is preferred by both the Parliament and the delegation. The delegation would try to amend the proposal to $2p^* - sq$ but it is aware that the Council would never accept a proposal on the right of $2c^* - sq$. The conciliation will end with the joint text located in the interval $[c^*; 2c^* - sq]$, and the Parliament would accept it, because it is far better than the status quo.

As a consequence, conciliation outcomes will be the same winset as before:

$$Outcome = [c^*; 2c^* - sq]$$

Both scenarios end with legislative outcomes biased in favour of the Council, since it will accept a proposal up to its threshold. No matter where the other actors are located, the Council will always achieve a policy as close as possible to its own ideal point. As a result, the status quo drives the bargaining solution in both cases: the Council may

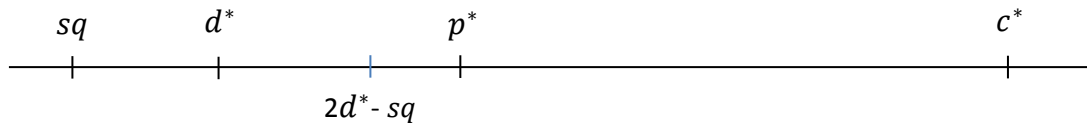
achieve a better payoff than the Parliament and the delegation, and it establishes the threshold policy to bargain. To some extent, the Council has complete information thanks to its strong bargaining position.

7.2.2. The Parliament in an advantageous position

In the next two preference configurations the Council is in a weak bargaining position, since it is the farthest actor from the status quo. The Council is aware of being in the worst bargaining location but, because of incomplete information about the Parliament's position, it cannot discriminate whether being in two different scenarios. In other words, the Council cannot distinguish with certainty between a strongly and a moderately recalcitrant Parliament. It believes the Parliament to be moderately recalcitrant ($p^* > d^*$) with probability π and strongly recalcitrant ($p^* < d^*$) with probability $1-\pi$.

Moderately recalcitrant Parliament (or $sq < d^ < p^* < c^*$)*

Figure 7.4: Moderately recalcitrant Parliament



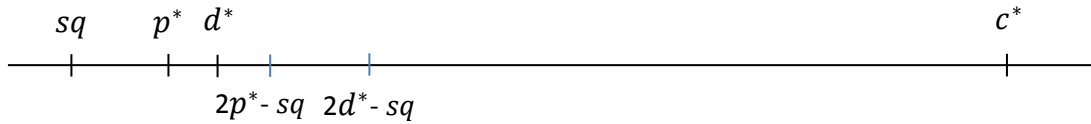
In this scenario, the Council is in a losing position, because it is the farthest actor from the status quo. Its ideal policy, c^* , is weakened by the counterproposal set by the delegation, while its bargaining power is hampered by the uncertainty on the parliamentary type. Having moderately recalcitrant position, the Parliament does not influence the final legislative outcome. The delegation's location and acceptance threshold are common information, so the Council will try to obtain at least $2d^* - sq$, even though it is uncertain on the parliamentary type.

Presumably, the conciliation outcome will lie in the interval bounded by d^* and $2d^* - sq$ and it is:

$$Outcome = [d^*; 2d^* - sq]$$

Strongly recalcitrant Parliament (or $sq < p^ < d^* < c^*$)*

Figure 7.5: Strongly recalcitrant Parliament



Giving that the Council is at the opposite extreme of the status quo, thus with limited bargaining power vis-à-vis the Parliament, this situation favours the Parliament as strongly recalcitrant type. At first, the Council may make a large set of proposals, comprised in the interval $[c^*, sq]$, but knowing the delegation's position, it proposes $2d^* - sq$ (which gives it the best payoff, all things considered). Unlike the previous setting, the delegation does not accept Council's proposal up to $2d^* - sq$, because it has to take into account the recalcitrance of its parent chamber (otherwise it may encounter a rejection of the joint text) and restrains the policy set. The Parliament forces its delegation to amend the Council's proposal in its set of preferred policies $[sq, 2p^* - sq]$. Moreover, the delegation pursues its own interests, exploiting some degree of discretion with its parent chamber.

The delegation would then amend the Council's proposal with a counterproposal, which satisfies two requirements:

- i. It should be as close as possible to the delegation's most preferred proposal, and
- ii. It should take into account the parliamentary acceptance threshold.

As a result, the conciliation outcome will be located in:

$$Outcome = [d^*, 2p^* - sq]$$

Other alternative outcomes will be rejected at third reading by the strongly recalcitrant Parliament.

The third section of this Chapter will investigate how negotiations occurs at conciliation in case of correct and incorrect beliefs and how belief manipulation by the delegation could take place when the Council is uncertain about the Parliament's type. The parliamentary side, indeed, may benefit from manipulating its own type: the delegation and the moderately recalcitrant Parliament may be better off if the Council believes that the Parliament is strongly recalcitrant.

7.3. Correct and incorrect beliefs

In this section I study in details what happen when the beliefs of the Council about the Parliament's type are correct or incorrect. Table 7.1 shows the four cases there can occur during bargaining in the Conciliation Committee. The Parliament is either strongly or moderately recalcitrant and the Council's beliefs are correct or incorrect. In the next subsection I will analyse these four cases.

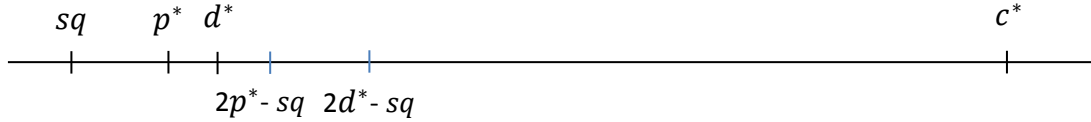
Table 7.1: Correct and incorrect beliefs

		Council's beliefs	
		<i>Strongly recalcitrant</i>	<i>Moderately recalcitrant</i>
Parliament's preferences	<i>Strongly recalcitrant</i>	Correct (1)	Incorrect (4)
	<i>Moderately recalcitrant</i>	Incorrect (3)	Correct (2)

7.3.1. Correct beliefs

(1) *Correct beliefs with strongly recalcitrant Parliament*

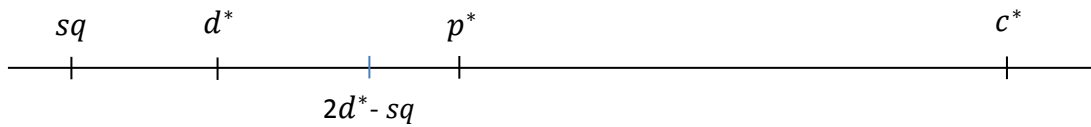
Figure 7.6: Correct beliefs of strongly recalcitrant Parliament



In this preference distribution, the Parliament is the most powerful actor, since it is the closest to the status quo, while the Council has a very far away position. The Council correctly believes that the Parliament is strongly recalcitrant. During conciliation bargaining, the delegation and the Council agree on a joint text that would be satisfying, given the Parliament's preferences. If the delegation is on the left of the Parliament's acceptance threshold, the best policy they can get lies in the interval $[d^*, 2p^* - sq]$, while if the delegation is on the right, they can obtain at most $2p^* - sq$. The correct beliefs of the Council do not change policy outcomes, since all the actors know that no proposal is accepted farther than the Parliament's acceptance threshold.

(2) *Correct beliefs with moderately recalcitrant Parliament*

Figure 7.7: Correct beliefs with moderately recalcitrant Parliament



In this scenario, the Council is in a losing position and it believes that the Parliament is moderately recalcitrant. The delegation, on the other hand, is in a strong bargaining position and does not accept any proposal on the left of its acceptance threshold.

Consequently, the Council realizes that the best payoff it could receive is when the bill corresponds to $2d^* - sq$.

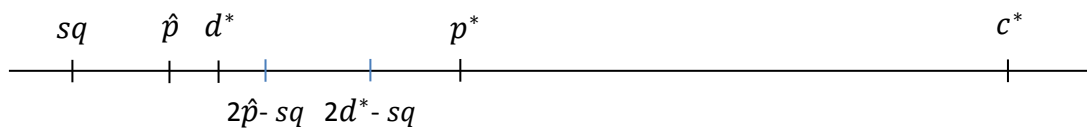
Both the delegation and the Council may issue a take-it-or-leave-it offer to the opponent chamber, with the risk of negotiation breakdowns. While the delegation may ask for its own ideal policy, the Council accepts only $2d^* - sq$. As a result, compromise policy may be reached in the interval $[d^*, 2d^* - sq]$. The role of the Parliament is crucial. The closer is to the delegation and the stronger is the delegation in asking for its own ideal policy. If the Parliament lies on the left of the delegation's acceptance threshold (and the Council believes that the Parliament is there), the Council and the delegation may reach an agreement in the interval $[p^*, 2d^* - sq]$, while if the Parliament is on the right, the Conciliation Committee may vote for a joint text that is in the policy outcome $[d^*, 2d^* - sq]$.

The delegation – in the former scenario – and the Parliament – in the latter scenario – may affect the policy outcome, by restricting the set of policies the actors may agree on.

7.3.2. Incorrect beliefs

(3) *Incorrect beliefs with moderately recalcitrant Parliament*

Figure 7.8: Incorrect beliefs with moderately recalcitrant Parliament



This preference distribution and the wrong beliefs of the Council illustrate the most interesting scenario that can occur in conciliation. In this circumstance, the Parliament is moderately recalcitrant, but the Council believes it is strongly recalcitrant. The supposed Parliament's ideal point is identified as \hat{p} . What is the policy outcome under this circumstance?

The delegation knows that the policy outcome is located in the interval $[d^*, 2d^* - sq]$, but the Council's belief reduces the interval, because it believes that the interval of the feasible policies is in $[d^*, 2\hat{p} - sq]$.

Bills located in such interval provide a higher payoff for the delegation as well as for the Parliament under certain cases. Consider the worst payoff they receive in case of correct and incorrect Council's beliefs with moderately recalcitrant Parliament. On the delegation's side, the worst policy it would agree is $2d^* - sq$, if the Parliament is believed to be moderately recalcitrant (correct beliefs), while it would agree $2\hat{p} - sq$, if the Parliament is believed to be strongly recalcitrant (incorrect beliefs). Under incorrect beliefs, the delegation gets more utility as the bill is located at $2\hat{p} - sq$, rather than at $2d^* - sq$. The Parliament, on the contrary, receives a better outcome when it is located on the left of the midpoint between the two relevant threshold, namely at $d^* + p^* - sq$. Any point on the right of this midpoint will reduce the Parliament's payoff.

Since the delegation may develop interesting mechanisms of belief manipulation, I will analyse circumstances where the delegation manipulates the Council's belief in the next section.

(4) *Incorrect beliefs with strongly recalcitrant Parliament*

Figure 7.9: Incorrect beliefs with strongly recalcitrant Parliament



Under this preference distribution, the Parliament is strongly recalcitrant (p^*), even though the Council believes to bargain with a moderately recalcitrant Parliament (\hat{p}).

As a result of this incorrect belief, the closest bill the Council can get is located at $2d^* - sq$, because the delegation is supposed to have the strongest bargaining power. Actually, in section 1.2 I have shown that under a preference distribution as $sq < p^* < d^* < c^*$, the strongly recalcitrant Parliament would bias the policy outcome in its

favour, namely $[d^*, 2p^* - sq]$. The risk here is that the delegation needs to force the conciliation negotiations in order to achieve $[d^*, 2p^* - sq]$, but the Council does not want to accept any policy on the left of $2d^* - sq$. Unlike the Council, the delegation, indeed, is aware that any joint texts in the interval $[2p^* - sq, 2d^* - sq]$ will be rejected at third reading.

In conclusion, under this scenario the conciliation bargaining may end up in two different policy outcomes: $[d^*, 2p^* - sq]$ or $[d^*, 2d^* - sq]$. In the former case, the bill will be then enacted, while in the latter case the bill will be rejected by the Parliament. To sum up, the winset in the four cases are reported in Table 7.2.

Table 7.2: Policy outcomes

		Council's beliefs	
		<i>Strongly recalcitrant</i>	<i>Moderately recalcitrant</i>
Parliament's preferences	<i>Strongly recalcitrant</i>	$[d^*, 2p^* - sq]$	$[d^*, 2p^* - sq]$ or $[d^*, 2d^* - sq]$
	<i>Moderately recalcitrant</i>	$[d^*, 2\hat{p} - sq]$	$[d^*, 2d^* - sq]$

7.4. Belief manipulation

In this section I analyse possible conciliation outcomes when the Council is subject to belief manipulation about the Parliament's type.

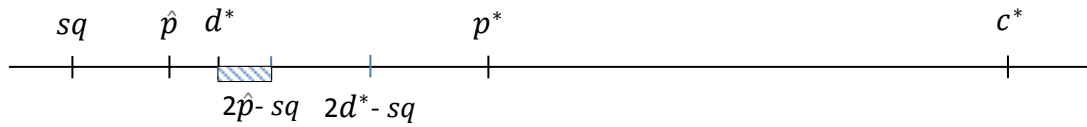
The previous section shows that incorrect belief about the strong recalcitrant type does not increase the Parliament's payoff, but increases the risk of third reading rejection. In the case the Parliament is strongly recalcitrant, belief manipulation would not increase the Parliament's payoff.

Conversely, the delegation and the moderately recalcitrant Parliament may be better off if the Council believes that the Parliament is strongly recalcitrant. As Figure 7.8

reminds us, the bargaining space is reduced to the interval $[d^*, 2\hat{p} - sq]$, even though the actual one is larger, for instance $[d^*, 2d^* - sq]$, giving a better payoff to the parliamentary side. This raises the possibility that the delegation might attempt to manipulate the Council's beliefs about the Parliament's type. Manipulation does not come so straightforward, though.

Consider Figure 7.10. The Council believes that the Parliament is strong (\hat{p}), but in reality it is moderate, that is to say, it is located $p^* > d^*$.

Figure 7.10: Belief manipulation



Although Cameron and McCarty (2004) illustrates that a moderate actor may be better off if the opponent believes she is extreme, bargaining in the Conciliation Committee with three actors is peculiar and demonstrates that the actors may assume a whole array of moderate and strong positions. The Parliament, indeed, is not always better off if it tries to manipulate the Council's beliefs.

Three cases can be distinguished. First, the moderate Parliament may be located to the right of the delegation's acceptance threshold, namely when $p^* > 2d^* - sq$. In this circumstance, the Parliament gets better payoff if the Council believes it is moderate, because the final outcome is likely to be in the interval $[d^*, 2d^* - sq]$. Moreover, the Parliament would be better off if the legislation was at the delegation's acceptance threshold, as compared to a bill close to the delegation's ideal policy. In this case the Parliament would manipulate the Council's beliefs so that it believes the Parliament is moderate with a position corresponding to the delegation's ideal policy. Therefore, the highest utility the Council and the Parliament can obtain is when the legislative outcome is the delegation's acceptance threshold.

Second, if the Parliament lies in the interval $[2\hat{p} - sq, 2d^* - sq]$, the delegation may not propose a tough proposal in order that the Council believes the Parliament is

strongly recalcitrant. On the contrary, the delegation may alternate policy concessions and refusals during the bargaining. The final outcome is located in the interval $[2\hat{p} - sq, 2d^* - sq]$. However, a responsible delegation would agree on a policy as close as possible to the Parliament's ideal policy, while a runaway delegation would try to convince the Council that the Parliament is stronger, in order to maximize its utility.

Third and most importantly, manipulation occurs when the moderate Parliament is located in the interval $d^*, 2\hat{p} - sq$. A Parliament located here (the shaded area in Figure 7.10) has strong incentives for the delegation to make tough proposal during conciliation bargaining in order to manipulate the Council's belief. Whichever proposal of the Council will be in the shaded area $[d^*, 2\hat{p} - sq]$, because it believes the Parliament is strongly recalcitrant and the delegation uses any efforts to strengthen those beliefs. In this circumstance, the Council proposes a bill that it finds less attractive but that the strong Parliament accepts, because it will get a higher payoff. The final outcome is in $[d^*, 2\hat{p} - sq]$.

In conclusion, only in this last preference distribution, the delegation has incentives to manipulate the Council's belief, while in the other two cases it should not be difficult for the delegation to persuade the Council that the actual position of the Parliament is $p^* > 2\hat{p} - sq$. Table 7.3 illustrates the winset of the status quo under the different positions the Parliament has when it is moderately recalcitrant.

Table 7.3: Policy outcomes under belief manipulation

Parliament's position [*]	Winset
$[d^*, 2\hat{p} - sq]$	$[d^*, 2\hat{p} - sq]$
$[2\hat{p} - sq, 2d^* - sq]$	$[2\hat{p} - sq, 2d^* - sq]$
$[2d^* - sq, c^*]$	$2d^* - sq$

* The Parliament has different moderately recalcitrant positions.

7.5. Analysing belief manipulation on the Telecoms Package

In this section I study this dynamics with analytic narrative of a dossier. I highlight the importance of the institutional context and the actor's utility function within the historical situations. First, I focus on the early stages of the draft directive on electronic communications networks and services, known as Telecoms Package. Second, I analyse the bargaining and belief manipulation occurred in the last legislative stages.

There are two reasons why I select this case. First, according to Wordfish estimate the Parliament results to be in a successful position vis-à-vis the Council. The final legislative outcome is estimated to be more similar to the second reading of the Parliament than to the Council's common position. Second, the Telecoms Package was a highly debated dossier in the public opinion. Deputies as well as consumers' association monitored all the legislative stages and provided a lot of information on the formal and informal meetings between the two delegations in conciliation. The Telecoms Package might be not the only dossier which the Parliament and its delegation manipulate their reputation for, but it is certainly the most recent and which I can give detailed account of.

7.5.1. Setting the ground

In 2000 the European Council adopted in Lisbon a strategic plan in order to enhance European competitiveness in growth and productivity with other world-wide leading countries, such as Japan and the US. The main commitment of the Lisbon strategy was that the European Union needs "to become the most dynamic and competitive knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion, and respect for the environment". In order to ensure the legal framework for electronic communications networks and services, the European Parliament and the Council adopted a package of measures in 2002. The five directives³⁹ defined a common set of rules for electronically transmitted

³⁹ The Framework Directive (2002/21/EC), the Access Directive (2002/19/EC), the Authorisation Directive (2002/22/EC), the Universal Service Directive (2002/22/EC) and e-Privacy Directive (2002/58/EC)

communications, whether wireless or fixed, data or voice, Internet-based or circuit switched, broadcast or personal. However, only in 2005 the Commission identified affordable and secure technological convergence of the telecommunications as key conditions for realising the growth and job creation in the European Union, and launched the i2010 initiative⁴⁰. It recognized that the economic performances are different across industrialised countries because of the level of ICT investment, research, and use, and the competitiveness of information society and media industries. Such initiative required a substantive reform of the regulatory framework capable to harmonize national legislation towards a common legal approach across the European Union and to consolidate the internal market. A 2006 report of the Commission noted, indeed, that despite the international feature of technological markets and development, there was a fragmentation of national laws, which hindered investment and was detrimental to consumers and operators.

On November 13, 2007 the European Commission presented three proposals⁴¹ to the Council and the Parliament to set up a new regulating scheme for electronic communications. The directives aimed at enhancing regulation for competitive electronic communications; completing the single market through the establishment of an independent European Electronic Communications Market Authority and a stronger role of the Commission; and improving consumer protection and user rights. Unlike the Access and Authorization Directive, the Framework Directive (COD/2007/0247) reached conciliation in order to be enacted.

On 24 September 2008, the Parliament voted its first reading upon the report tabled by the rapporteur Catherine Trautmann (PES, FR). The report considered that the amended regulatory framework should also include: the promotion of consumer protection in terms of transparency of fees and charges; the recognition of consumer associations' role in public consultations; and systematic and effective protection against electronic fraud through cooperation between national authorities and a Body of European Telecoms Regulators. However, the most important amendment, the so called Amendment 138, was presented in the plenary by Cohn-Bendit (Greens, D), Bono

⁴⁰ COM(2005) 229 final

⁴¹ The Framework Directive, COM(2007)0697; the Authorisation Directive, COM(2007)0698; the Access Directive COM(2007)0699.

(PES, FR) and Roithova (EPP, CZ) and prescribed that no restriction may be imposed on the fundamental rights and freedoms of end users, without a prior ruling by the judicial authorities, save when public security is threatened. The amendment was accepted by a large majority in the plenary and even the Commission issued a positive opinion.

In February 2009 the Council unanimously agreed, with the abstention of Sweden, the United Kingdom and the Netherlands, on the common position. It claimed that an update of the regulatory framework for electronic communication would produce benefits, but this could have been achieved by improving the existing arrangements rather than setting up an alternative mechanism. The member states changed the amended Commission proposal regarding the independence of the national regulatory authorities as well as the collaborating approach with the Commission on the possibility to issue decision on draft measures intended to be taken by such national authorities. Moreover, the Council rejected Amendment 138 outright excluding to mention it both in recitals and in articles. The main reason regards the legal basis of the amended proposal which does not allow forcing the member states into a particular judicial organization (European Parliament 2009c).

Amendment 138 was the only one subparagraph remained controversial between the Parliament and the Council, that is to say the degree to which access to the internet is protected by EU law, as well as the procedural and judicial safeguards for internet users. It became the underlying issue of conflict both at second reading and in conciliation. Upon this issue, negotiators release several declarations of vote so that I am able to identify whether there were signals and misinterpreted information for belief manipulation at conciliation

7.5.2. The belief manipulation on the Telecoms Package

After the Council's rejection, the Parliament reinstated amendment 138 at second reading by 407 votes to 57, with 171 abstentions (mostly from the EPP) on 6 May 2009. The amendment states as follows:

Applying the principle that no restriction may be imposed on the fundamental rights and freedoms of end-users, without a prior ruling by the judicial authorities, notably in accordance with Article 11 of the Charter of Fundamental Rights of the European Union on freedom of expression and information, save when public security is threatened in which case the ruling may be subsequent.

During the second reading debate the rapporteur, indeed, declared that: “This morning’s vote puts the whole package back on the drawing board. Either the Council pays heed to the EP’s vote and says what it never said and accepts the amendment, or the Council of Ministers, which alleged that the EP did not have the right to meddle in its jurisdiction, refuses, and the package goes to conciliation” (Vandystadt 2009b). Moreover, the Parliament knew that the Council, under the Czech Presidency, could never have accepted the amendment. At that time, a French law and a UK bill introduced a three-strike rule, which could cut off Internet access without the intervention of the judicial authority, if the user were suspected of illegally downloading content. The rights protected by the draft amendment would have been meaningless, according to the Parliament, if such laws were allowed to be enforced at national level.

It is from this point that the Parliament signalled incorrect information about its own type to the Council, in order to obtain more concession.

Since the Conciliation Committee has been convened, long negotiations occurred in order to find agreement on the issue both within the parliamentary delegation and between the Parliament and the Council. In October 2009, during the several preparatory trialogues, the Parliament and the Council were involved in a truly sequential bargaining game, where each negotiator offered its proposal and counterproposal to the other. In addition, the Parliament showed a strong bargaining position and rejected accommodating compromise of the Council. The rapporteur undertook a meticulous work along with the Parliament’s Secretariat for Codecision and Conciliation as well as the Legal Service in order to find an acceptable formula for the member states.

On the day before of the Conciliation Committee’s first meeting, deputies were deeply concerned that the Parliament’s delegation would not have been strong enough vis-à-vis

the Council to reach important clauses, such as presumption of innocence and the right to privacy. Catherine Trautmann (S&D, FR), the rapporteur, regretted that: “Can we knowingly take the risk of defending Amendment 138 to the finish while knowing that it might be declared inadmissible by the European Court of Justice and that internet users would then be defenceless?” (Vandystadt 2009a). According to Christian Engström (Greens, SE), the key parliamentary representatives (the rapporteur, the chairman and the vice-President) reported back that preparatory informal meeting with the Council were on the basis of the Council’s text (Engström 2009a). After tense discussion, the Parliament agreed on the key points which deputies could not give up. First, they pointed out to the Council that Amendment 138 was abandoned, because there would have been against the Treaty provisions and the European Court of Justice would have rejected it in the case of an appeal. Second, the Parliament did not renounce its demand on internet-users’ rights of access and, on 20 October 2009, the delegation met for the first time. Therefore, it showed up to be a strong negotiator, as the vice-President responsible for conciliation, Alejo Vidal-Quadras, emphasized: “We go to negotiations with a compromising spirit but firm in our defence of the rights of the users and committed in the development of a regulatory framework that would incentivise investments and that would open the market.” (EPP group 2009). The Parliament was aware that their first proposal at the trialogues would have been considered as the least compromising position by the Council, since it provided for cutting off of users only after a prior rulings and under exceptional circumstances. It states:

“3a. Measures taken by member states regarding end-users' access to or use of services and applications through electronic communications networks shall respect the fundamental rights and freedoms of natural persons, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and general principles of Community law.

Any measures liable to restrict those fundamental rights or freedoms may only be taken in exceptional circumstances should and imposed if they are appropriate, proportionate and necessary within a democratic society, and shall be subject to adequate procedural safeguards in conformity with the

European Convention for the Protection of Human Rights and Fundamental Freedoms and with general principles of Community law, including effective judicial protection and due process. In particular, any measures may only be adopted as a result of a prior, fair and impartial procedure ensuring that inter alia the principle of presumption of innocence and the right to be heard of the person or persons concerned be fully respected. Furthermore, the right to an effective and timely judicial review shall be guaranteed.

This shall not affect the competence of a member state, in conformity with its own constitutional order and with fundamental rights, to establish a requirement of a judicial decision authorising the measures to be taken. ”

On the other hand, the Council did its counterproposal, by deleting guarantees on prior trials (the part in the text that are crossed out) and adding provisions under which member states may adopt urgent measures (the text in bold).

3a. Measures taken by member states regarding end-users' access to or use of services and applications through electronic communications networks shall respect the fundamental rights and freedoms of natural persons, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and general principles of Community law.

*Any **of the above** measures liable to restrict those fundamental rights or freedoms may **therefore** only be ~~taken in exceptional circumstances and~~ imposed if they are appropriate, proportionate and necessary within a democratic society, and shall be subject to adequate procedural safeguards in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with general principles of Community law, including effective judicial protection and due process. ~~In particular, any~~ **These measures may only be adopted as a result of a prior, shall respect the requirements of a fair and impartial procedure ensuring** ~~inter alia that the principle of presumption of innocence and including the right to be heard of the person or persons concerned be fully respected.~~*

~~Furthermore, and the right to an effective and timely judicial review shall be guaranteed.~~

*This shall not affect the competence of a member state, in conformity with its own constitutional order and with fundamental rights, **inter alia**, to establish a requirement of a judicial decision authorising the measures to be taken and to adopt urgent measures in order to assure national security, defence, public security and the prevention, investigation, detection and prosecution of criminal offences.*

The parliamentary delegation did not to step back from its demand and rejected the offered proposal, setting firm conditions for agreement. The core of the article was “the prior and impartial procedure” that should be a guarantee for Internet end-users. The delegation demonstrated to be inflexible on certain central aspects of the ex-Amendment 138 and it resulted to achieve more concessions than if it were adopting the accommodating stances the parliamentary relay actors considered to accept at the beginning of the conciliation negotiations.

If we compare, indeed, the first reading amendment with the final act, the latter produces tougher provision asked by the Parliament. The Parliament did not give in that restricting measures must also be nothing but appropriate, proportionate and necessary within a democratic society. In particular, these measures must respect the presumption of innocence and the right to privacy. With regard to any measures of member states taken on their Internet access (e.g. to fight child pornography or other illegal activities), citizens in the EU are entitled to a prior fair and impartial procedure, including the right to be heard, and they have a right to an effective and timely judicial review.

3a. Measures taken by member states regarding end-users’ access to or use of services and applications through electronic communications networks shall respect the fundamental rights and freedoms of natural persons, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and general principles of Community law.

*Any of ~~these the above~~ measures **regarding end-user’s access to or use of services and applications through electronic communications networks***

*liable to restrict those fundamental rights or freedoms may ~~therefore~~ only be imposed if they are appropriate, proportionate and necessary within a democratic society, and **their implementation** shall be subject to adequate procedural safeguards in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with general principles of Community law, including effective judicial protection and due process. Accordingly, these measures may only be taken with due respect for the principle of presumption of innocence and **the right to privacy and shall guarantee** ~~shall respect the requirements of a prior~~ fair and impartial procedure including the right to be heard of the person or persons concerned and the right to an effective and timely judicial review. ~~This shall not affect the competence of a member state, in conformity with its own constitutional order and with fundamental rights, to establish, inter alia, a requirement of a judicial decision authorising the measures to be taken.~~*

The delegation made only one concession, that is it agreed to that even non-judicial authorities are entitled to adopt the limiting measure of end-users' right to Internet access, following the deletion of the last paragraph. The Council was in the corner. Member states believed that the tough demand of the Parliament was their ultimate acceptance threshold, otherwise negotiations would have failed. Because the directive was considered as Europe's best response to the economic and financial crisis, member states could not afford a failure. The Parliament, on the other hand, was certainly cohesive in the last stages of the codecision and, even though some deputies from the European People's Party, the largest party group in the assembly, were initially not prepared to such a safeguard of fundamental rights also for the Internet's users. The compromise text accepted even the ground instances of the most protectionists of net users, the Greens and the Swedish Pirate Party. It states:

3a. Measures taken by member states regarding end-users' access to or use of services and applications through electronic communications networks shall respect the fundamental rights and freedoms of natural persons, as

guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and general principles of Community law.

Any of these measures regarding end-user's access to or use of services and applications through electronic communications networks liable to restrict those fundamental rights or freedoms may only be imposed if they are appropriate, proportionate and necessary within a democratic society, and their implementation shall be subject to adequate procedural safeguards in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with general principles of Community law, including effective judicial protection and due process. Accordingly, these measures may only be taken with due respect for the principle of presumption of innocence and the right to privacy. A prior fair and impartial procedure shall be guaranteed, including the right to be heard of the person or persons concerned, subject to the need for appropriate conditions and procedural arrangements in duly substantiated cases of urgency in conformity with European Convention for the Protection of Human Rights and Fundamental Freedoms. The right to an effective and timely judicial review shall be guaranteed.

In substance, compared to Amendment 138 measures limiting end-users' right shall be defined by administrative authorities, and not necessarily by the judiciary. At the same time, there are even more precise conditions in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedom and when there is urgency rights are protected and guaranteed by judicial appealing. The member of the Swedish Pirate Party, Christian Engström (Greens, SE), claimed that: "This is not a perfect text. It is not what I would have proposed if could write it myself, free from any political constraints. But it is good enough to be a step in the right direction." (Engström 2009b).

Even Lambert van Nistelrooij (EPP, NL) made a declaration of votes warmly supporting the text and pointing out that during the conciliation the rapporteur made such effort in extracting concessions from the Council that the latter "was not prepared

to go that far”. The rapporteur, indeed, posed so many conditions that everyone in the plenary welcomed the text as an example of “a *pièce de résistance* of the art of negotiation”(European Parliament 2009b).

By defending such strongly recalcitrant position, the Council considered the Parliament as such and that was the only compromise text the two delegations could have agreed on. All the parliamentary delegates voted in favour, even a MEP from the EFD, against the voting indication of its party. As a matter of fact, the Parliament voted almost unanimously at third reading, only 40 MEPs voted against the joint text⁴².

The Parliament’s cohesiveness both in conciliation and in third reading sent strong signals to the Council: a large majority, formed by ALDE; ECR, EPP, Greens/EFA and PES, wanted outright the protection of fundamental rights for Internet users.

Conclusions

This Chapter has a double purpose: it combines analytic tools with the narrative exposition of one dossier. In the first sections I have developed a model of the legislative politics in conciliation. The primary objectives have been to investigate under which preference distributions belief manipulation may occur and which payoffs the delegation and the Parliament may achieve once they make tough proposals to the Council. In the last section I have tried to analyse these mechanisms of belief manipulation in a specific case. I paid close attention to accounts and context under which the Telecom Package was negotiated and then enacted. I suggested, through formal lines of reasoning, my interpretation on the events occurred in the Conciliation Committee and the alternating proposals and counterproposals in order to reach a compromise on Amendment 138.

⁴² Data on the 3rd reading voting are accessible on <http://www.votewatch.eu/>

8. Conclusions

The primary goal of this research was to shed light on the important, but rather neglected, topic of the Conciliation Committee. I investigated the balance of power between the Council and the Parliament within the Conciliation Committee and how they settle disagreements. This was accomplished through the application of bargaining theory and formal models on bicameralism as well as the rationalist accounts to EU politics. I have analysed the conditions under which the European Parliament is more successful in conciliation bargaining and I have dealt with two research questions. First, I focused on the extent to which legislative outcomes are biased in favour of one chamber instead of the other. Second, I was interested in the explanatory factors that may affect such conciliation bargaining and I formulated several hypotheses.

My expectations were then assessed by three empirical analyses: a large sample analysis; an interview-based, qualitative study; and a formal analysis with a detailed case study. First, through Wordfish I conducted a quantitative text analysis estimating the similarity between the official documents of 179 dossiers that reached conciliation from the entry into force of the Treaty of Maastricht to 29 February 2012. The dataset covered almost all the dossiers the Council and the Parliament have agreed on. I used the data both to describe the extent to which the joint text is more similar either to the Council's common position or to the Parliament's second reading, as well as to statistically analyse the explanatory factors that influence parliamentary bargaining success.

Second, for the qualitative analysis I conducted interviews with key negotiators, both from the Council and Parliament, about several dossiers that reached conciliation. It provides an in-depth contribution to the factors affecting legislative outcome for a broad array of cases. Furthermore, I used the qualitative analysis to enrich the theoretical

argumentation about the causal mechanisms of such variables and to discover additional, previously ignored, explanatory factors.

Finally, I explored the dynamics of belief manipulation through the development of a spatial model, which was subject then to analysis via an in-depth narrative of a conciliation dossier.

In this Chapter, I summarize the main findings and I consider whether and how far the results from the quantitative, the qualitative as well as the formal analyses may be reconciled. Finally, I explore avenues for further research.

The findings

The first research question is about the overall bargaining performance in conciliation. Although the Conciliation Committee is conceived as a unicameral body where equally represented delegations of the Council and the Parliament meet, the legislative outcomes it produces do not reflect balanced bargaining powers. Upon a closer examination, the institutional set-up of the committee is biased in favour of the Council. First, the composition rules establish that the Council's delegation may rely on all the representatives of the member states, which are always involved during the negotiations, while the Parliament has currently twenty-seven delegates only. In other words, the Council delegation *is* the Council. Consequently, the amendment rule that each chamber employs to amend a proposal is different. Even though both chambers vote under open rule in conciliation, and under closed rule at third reading, each member state may amend the proposal during the conciliation negotiations. The Council and the Parliament vote under qualified majority and simple majority voting, respectively. The composition, amendment and voting rules determine that the member states are more constrained than the parliamentary delegations and they enjoy less proposal power than the parliamentary delegates. As expected, the results, indeed, indicate that the outcomes are biased in favour of the Council. Both the quantitative analysis and the interview-based research show that the Council has a structural bargaining advantage.

The second question was related to the circumstances under which the Parliament is more likely to affect the legislative outcomes. Table 8.1 summarizes whether the hypotheses I formulated in Chapter 3 found substantial or preliminary evidences in the three empirical Chapters.

Table 8.1: Hypotheses on parliamentary success and empirical evidences

	5 Explaining conciliation's outcomes	6 Conciliation and negotiators	7 Modelling and analysing belief manipulation in conciliation
Disagreement value			
<i>Hypothesis 1a: Conciliation outcomes are more likely to be biased against the Parliament when the Council is closer to the status quo than the Parliament.</i>		✓	✓ ✓
<i>Hypothesis 1b: Conciliation outcomes are more likely to be biased against the Parliament when new legislation is under discussion.</i>	✓	X	
Institutions			
<i>Hypothesis 2: Conciliation outcomes are more likely to be biased in favour of the Parliament under qualified majority voting of the Council, rather than under unanimity.</i>	✓ ✓		
<i>Hypothesis 3: Conciliation outcomes are more likely to be biased in favour of the Parliament under the codecision version of the Amsterdam Treaty, rather than the early version of the Maastricht Treaty.</i>	✓ ✓		
<i>Hypothesis 4: Conciliation outcomes are more likely to be biased in favour of the Parliament when the size of the assembly is reduced.</i>	X		
Uncertainty, veto threat and reputation			
<i>Hypothesis 5a: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur comes from larger parties.</i>	✓	✓	
<i>Hypothesis 5b: Conciliation outcomes are more likely to be biased in favour of the Council when rapporteur comes from smaller parties.</i>	X	X	
<i>Hypothesis 6a: Conciliation outcomes are more likely to be biased in favour of the Parliament when rapporteur is in a leadership position.</i>	✓	X	

<i>Hypothesis 6b: Conciliation outcomes are more likely to be biased in favour of the Council when rapporteur is not in a leadership position.</i>	X	X	
<i>Hypothesis 7: Conciliation outcomes are less likely to be biased in favour of the Parliament when rapporteur is from a party represented in the Council.</i>	X	X	
<i>Hypothesis 8: Conciliation outcomes are more likely to be biased in favour of the Parliament when the Presidency of the Council is from a new member state.</i>	✓	✓	✓
<i>Hypothesis 9a: Conciliation outcomes are more likely to be biased in favour of the Parliament when audience submits its costs.</i>	✓	✓	
<i>Hypothesis 9b: Conciliation outcomes are more likely to be biased in favour of the Parliament at the beginning, rather than at the end of the legislative term.</i>	X	X	
<i>Hypothesis 10: Conciliation outcomes are more likely to be biased in favour of the Parliament when parliamentary actors have more experience on the dossier and on how to conduct the negotiations</i>		✓	
Representativeness and cohesiveness			
<i>Hypothesis 11: Conciliation outcomes are more likely to be biased in favour of the Parliament when the assembly voted cohesively.</i>		✓	
<i>Hypothesis 12: Conciliation outcomes are more likely to be biased in favour of the Parliament when the delegation is recalcitrant instead of accommodating.</i>			✓
Implementation			
<i>Hypothesis 13: Conciliation outcomes are more likely to be biased in favour of the Parliament when the Commission gives positive opinion on the second parliamentary reading.</i>	✓ ✓	✓ ✓	
<i>Hypothesis 14: Conciliation outcomes are more likely to be biased in favour of the Parliament in the case of measures with greater involvement of national administrations.</i>	✓ ✓	---	

Note:

- ✓✓ significant corroboration of the hypothesis in the empirical analysis
- ✓ partial corroboration of the hypothesis in the empirical analysis
- ✗ no corroboration of the hypothesis in the analysis

I will proceed by highlighting those factors the explanatory power of which is corroborated by both the large-N analysis and the interviews.

First of all, in Chapter 3 I reviewed the literature on the disagreement value and how the proximity to the status quo may increase the chance of one chamber's success. The quantitative analysis indicated that the Parliament increases its bargaining success in conciliation when acts amending previous EU legislation are negotiated. In this case, a negotiating failure is less costly to parliamentarians, because they attach a lower disagreement to the measure at hand than the one assigned by ministers. On the contrary, the qualitative analysis highlighted the impact of the disagreement value when withdrawals and rejections of dossiers occur. I illustrated, indeed, the more recent dossiers on which the Council and the Parliament did not find an agreement and I found that the Parliament is more likely to reject the joint text when it attaches a better utility to the existing legislation.

Second, legislative outcomes are affected by rapporteurs that come from large parties. This result is in accordance with the hypotheses formulated in Chapter 3 and derived by veto-threat and preference-based explanations. The veto-threat argument considers rapporteurs as the leading actors capable of setting credible restrictions over the set of acceptable solutions. To some extent, rapporteurs coming from large parties may issue credible threats that the assembly will vote against the less preferred policies of the Council. Since these rapporteurs may extract more concessions from the other chamber, the final agreement results to be more similar to the Parliament's position. The preference-based explanation puts emphasis on the large support these rapporteurs may receive in the plenary, because they are either more in touch with the view of the majority or they are more able to sanction defecting parliamentarians. Both explanations are corroborated, even though interviewees give more emphasis to rapporteurs as representatives than issuer of veto threats.

Third, even the relay actor of the Council – the Presidency – affects bargaining outcomes. Because newer member states holding the Presidency may be more easily subject to belief manipulation and they face higher reputation costs, the conciliation outcome is likely to be biased in favour of the Parliament. This hypothesis was corroborated by the large-N as well as the interview-based analyses. The lower

Council's bargaining success when newer member states chair the Presidency depends also by their limited ability to put the counterparts against the ropes, because they are more preoccupied to accomplish their six-month agenda than to be successful in conciliation. Moreover, these countries may rely on fewer top-level bureaucrats in the institutions and they have less access to information.

Fourth, deputies have a five-year electoral mandate and their chance of being successful during conciliation bargaining depend also whether they are at the beginning or at the end of this mandate. The literature on bargaining offers two alternative explanations about how the electoral cycle may affect bargaining. On the one side, McCarty (1997) suggests that the parliamentary delegation may extract more concessions from the Council when they are at the beginning of the mandate, because of the greater need to build a reputation. On the other side, Groseclose and McCarty (2001) include the electorate as the third actor to which parliamentarians have to account of. Quantitative analysis showed weak evidence of the impact electoral cycle. However, it corroborated the second explanation, thus confirmed even by the interviews which consider the relations deputies have with their constituencies as well as the desire of being re-elected. The last factor both analyses agreed on is the role of the Commission. The Commission plays a facilitating role of proposing the compromise and may influence both formally and informally the conciliation outcome in favour of one chamber rather than the other, especially through the opinions they give to the Council's and the Parliament's prior positions. Both analyses strongly corroborated this expectation and in particular the increasing parliamentary success when the Commission takes its side.

Unfortunately, other factors are corroborated only in one analysis. For example, the impact of constitutional reforms is strongly corroborated in the quantitative study. Indeed, the 1997 reform of the codecision procedure as well as the expansion of the qualified majority voting increase parliamentary success. I could not investigate these relations in the qualitative study, however, since no interviewees have an experience of such modifications. Also the expectation related to implementation was tested and corroborated only in the large-N study. When the measure prescribe implementation via national administrations, the Parliament and the Commission rely on legislative oversight (Franchino 2007) and they are more recalcitrant vis-à-vis the Council. The

opposite it occurs when the Commission is the main implementer. As a result, the Parliament increases its bargaining success in conciliation in the former circumstance rather than the latter.

On the contrary, the qualitative analysis shed light on several factors. First, interviewees confirmed that the ability of the relay actors to increase success of their parent chamber depends even by their personality: both bargaining skills as well as skills based on mutual trust and empathy. Second, cohesiveness of the chambers matters and negotiators make use of manipulating tactics in order to find alternative legislative outcomes that divide the other chamber. Although interviewees confirmed the influence of this factor, it is not clear whether it may favour one chamber or the other.

Third, reforms introduced by the Lisbon Treaty may change the balance of power between the Council and the Parliament in conciliation. The Treaty changes the comitology system with the establishment of implementing and delegated acts. Although this seemed to have increased the bargaining power of the Parliament, in the short run after the entry into force the Council was recalcitrant towards the Parliament, negotiating the legislative outcome in favour of the member states. Last, parliamentary negotiators may exploit the different time horizons of parliamentarians and Council members. Interviewees, indeed, pointed out that the President is impatient due to its short mandate of only six months.

The dynamics of belief manipulation by the Parliament may occur under specific preference distributions. I considered four preference distributions, based on the location of the Parliament, its delegation and the Council vis-à-vis the status quo: the extreme position of the Parliament, the extreme position of the delegation, the moderately recalcitrant Parliament and the strongly recalcitrant Parliament. Only in the last two cases, the Parliament may manipulate the Council's beliefs in order to extract more concessions. However, the analysis highlights that when the Parliament is strongly recalcitrant, belief manipulation would not increase the Parliament's payoff, but it may increase the risk of third reading rejection. On the contrary, when the Parliament is moderately recalcitrant, it may be better off if the Council believes that the Parliament is strongly recalcitrant. I analyse this latter case through a narrative of the Telecom Package. I interpreted the events occurred prior and at conciliation as a game of

alternating offers and counteroffers where the Parliament sought to manipulate the Council's beliefs and finally it succeeded to extract an important concession on a controversial amendment on fundamental rights of end-users.

Further research

Overall, in the present analysis I have highlighted how the Conciliation Committee operates and assessed the bargaining power of the Council and the Parliament with a systematic analysis of almost all the dossiers that reached this dispute settlement body. The Conciliation Committee's outcomes are preponderantly biased in favour of the Council, but the Parliament may adopt several weapons to increase its bargaining power, especially taking into account that bicameral setting is characterized by incomplete information and belief manipulation. In addition, the two legislative institutions may adopt more recalcitrant prior positions once they realize that their disagreement will be solved in the Conciliation Committee. The expectation that the Council and the Parliament have on the possible outcomes in conciliation may affect the parliamentary second reading and the common position.

However, we need further analysis to examine more in detail the influence of some factors, using even different methodology. First of all, I noticed the difficulties in determining the nature of the parliamentary delegation. Representativeness seemed not to be a problem, since it is guaranteed by procedural rules. However, we need to know the composition of the parliamentary delegation in view of the Council's position on the dossier at hand. Second, I devoted an entire Chapter to the influence that belief have on the final outcome. The analytic narratives tested when belief manipulation occurs, but a more systematic empirical analysis may be appropriate, even extended to the whole legislative process.

Appendix

List of European parties and their abbreviations

Party	Label
EPP	European People's Party
PES	Party of European Socialists
S&D	Socialists and Democrats
ALDE	Alliance of Liberals and Democrats in Europe
Greens/EFA	Greens/European Free Alliance
UEN	Union for Europe of the Nations
GUE/NGL	European United Left/Nordic Green Left
IND/DEM	Independence/Democracy Group
ECR	European Conservatives and Reformists
EFD	Europe of Freedom and Democracy

List of member states and their abbreviations

Member state	Label
Belgium	BE
Bulgaria	BG
Czech Republic	CZ
Denmark	DK
Germany	DE
Estonia	EE
Ireland	IE
Greece	GR
Spain	ES
France	FR
Italy	IT
Cyprus	CY
Latvia	LV
Lithuania	LT
Luxembourg	LU
Hungary	HU
Malta	MT
Netherlands	NL
Austria	AT
Poland	PL
Portugal	PT
Romania	RO
Slovenia	SI
Slovakia	SK
Finland	FI
Sweden	SE
United Kingdom	GB

Bibliography

- Achen, Christopher H. 2006. "Institutional Realism and Bargaining Models." In *The European Union Decides*, Political Economy of Institutions and Decisions, Cambridge University Press, 86–123.
- Allison, Paul David. 2001. *Missing Data*. SAGE.
- Ansolabehere, Stephen, James M. Snyder, and Michael M. Ting. 2003. "Bargaining in Bicameral Legislatures: When and Why Does Malapportionment Matter?" *American Political Science Review* 97(03): 471–81.
- Arregui, Javier, and Robert Thomson. 2009. "States' Bargaining Success in the European Union." *Journal of European Public Policy* 16(5): 655–76.
- Bailer, Stefanie. 2004. "Bargaining Success in the European Union: The Impact of Exogenous and Endogenous Power Resources." *European Union Politics* 5(1): 99–123.
- . 2006. "The Dimensions of Power in the European Union." *Comparative European Politics* 4: 355–78.
- . 2010. "What Factors Determine Bargaining Power and Success in EU Negotiations?" *Journal of European Public Policy* 17(5): 743–57.
- Bailer, Stefanie, Mikko Mattila, and Gerald Schneider. 2010. "Money Makes the EU Go Round: The Objective Foundations of Conflict in the Council of Ministers." In Rochester, NY: Social Science Research Network.
- Baron, David P., and John A. Ferejohn. 1989. "Bargaining in Legislatures." *The American Political Science Review* 83(4): 1181–1206.
- Bates, Robert H., Avner Greif, Margaret Levi, Jean-Laurent Rosenthal, and Barry R. Weingast. 1998. *Analytic Narratives*. Princeton, N.J: Princeton University Press.
- Benedetto, Giacomo. 2005. "Rapporteurs as Legislative Entrepreneurs: The Dynamics of the Codecision Procedure in Europe's Parliament." *Journal of European Public Policy* 12(1): 67.

- Börzel, Tanja A. 2001. "Non-compliance in the European Union: Pathology or Statistical Artefact?" *Journal of European Public Policy* 8(5, October): 803–24.
- Budge, Ian, Hans-Dieter Klingemann, Andrea Volkens, Judith Bara, and Eric Tanenbaum. 2001. *Mapping Policy Preferences: Estimates for Parties, Electors, and Governments, 1945-1998*. Oxford University Press.
- Budge, Ian, David Robertson, and Derek Hearl. 1987. *Ideology, Strategy and Party Change: Spatial Analyses of Post-War Election Programmes in 19 Democracies*. Cambridge University Press.
- Burns, Charlotte. 2004. "Codecision and the European Commission: a Study of Declining Influence?" *Journal of European Public Policy* 11: 1–18.
- Cameron, Charles. 2000. *Veto Bargaining: Presidents and the Politics of Negative Power*. Cambridge University Press.
- Cameron, Charles, and Nolan McCarty. 2004. "Models of Vetoes and Veto Bargaining." *Annual Review of Political Science* 7(1): 409–35.
- Ceron, Andrea. 2012. "Bounded Oligarchy: How and When Factions Constrain Leaders in Party Position-taking." *Electoral Studies* 31(4): 689–701.
- Corbett, Richard Graham, Francis Jacobs, and Michael Shackleton. 2007. *The European Parliament-7th Edition*. John Harper.
- Costello, Rory, and Robert Thomson. 2010. "The Policy Impact of Leadership in Committees: Rapporteurs' Influence on the European Parliament's Opinions." *European Union Politics* 11(2): 219–40.
- . 2011. "The Nexus of Bicameralism: Rapporteurs' Impact on Decision Outcomes in the European Union." *European Union Politics* 12: 337–57.
- Council of the European Union. 2011. "Conciliation on Novel Foods Failed." http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/120351.pdf (June 15, 2012).
- . "Ordinary Legislative Procedure." <http://consilium.europa.eu/policies/ordinary-legislative-procedure?lang=en> (January 8, 2010).
- Crombez, Christophe. 1996. "Legislative Procedures in the European Community." *British Journal of Political Science* 26(02): 199–228.
- . 1997. "The Co-Decision Procedure in the European Union." *Legislative Studies Quarterly* 22(1): 97–119.
- . 2000. "Institutional Reform and Co-Decision in the European Union." *Constitutional Political Economy* 11(1): 41–57.

- . 2001. “The Treaty of Amsterdam and the Co-decision Procedure.” In *The Rules of Integration: Institutional Approaches to the Study of Europe*, Manchester University Press, 101–22.
- DeMesquita, Bruce B., and Franciscus Nicolaas Stokman. 1994. *European Community Decision Making: Models, Applications and Comparisons*. YALE University Press.
- Dixit, Avinash, and Susan Skeath. 1999. *Games of Strategy*. London: W.W. Norton & Company.
- Doron, Gideon, and Itai Sened. 2001. *Political Bargaining: Theory, Practice and Process*. SAGE.
- Engström, Christian. 2009a. “Chaotic Delegation Meeting on the Telecoms Package.” *Christian Engström, Pirate MEP*. <http://christianengstrom.wordpress.com/2009/10/23/2440/> (May 8, 2013).
- . 2009b. “Telecom Package: Final Agreed Text.” <http://christianengstrom.wordpress.com/2009/11/05/telecom-package-final-agreed-text/> (May 8, 2013).
- EPP group. 2009. “Telecom Package: Time Running Out for Agreement Between Parliament and Council - 22/10/2009 - EPP Group.” <http://arc.eppgroup.eu/press/showpr.asp?PRControlDocTypeID=1&PRControlID=8856&PRContentID=15345&PRContentLG=en> (May 8, 2013).
- Epstein, David, and Sharyn O’Halloran. 1999. *Delegating Powers: A Transaction Cost Politics Approach to Policy Making Under Separate Powers*. Cambridge: Cambridge University Press.
- European Commission. 2005. *I2010 – A European Information Society for Growth and Employment*. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0229:FIN:EN:PDF> (May 28, 2013).
- . 2007. *Report on the Outcome of the Review of the EU Regulatory Framework for Electronic Communications Networks and Services in Accordance with Directive 2002/21/EC and Summary of the 2007 Reform Proposals*. [http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_euroenne/com/2007/0696/COM_COM\(2007\)0696_EN.pdf](http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_euroenne/com/2007/0696/COM_COM(2007)0696_EN.pdf) (May 28, 2013).
- . 2009. *The Codecision Procedure (art. 251 TEU): Analysis and Statistics of the 2004-2009 Legislature*. http://ec.europa.eu/codecision/statistics/index_en.htm (September 9, 2010).

- . “CO-DECISION or the ‘Ordinary Legislative Procedure’.” *CO-DECISION or the “ordinary legislative procedure.”* http://ec.europa.eu/codecision/index_en.htm (September 8, 2010a).
- . “PreLex - Monitoring of the Decision-making Process Between Institutions.” http://ec.europa.eu/prelex/rech_simple.cfm?CL=en (January 8, 2010b).
- European Council. 2000. *European Council Report on the Co-decision Procedure*. Brussels: European Council. <http://www.cvce.eu/viewer/-/content/721917f1-b39a-4ec4-b5c9-7b633f7eb085/en;jsessionid=F2B3AA08F067F9DC9BA5E7E7EB790B0B> (September 22, 2011).
- European Parliament. 1999. *Activity Report: 1 November 1993 - 30 April 1999*. http://www.europarl.europa.eu/code/about/activity_reports_en.htm.
- . 2004. *Activity Report: 1 May 1999 - 30 April 2004*.
- . 2009a. *Activity Report: 1 May 2004 - 30 April 2009*.
- . 2009b. “Electronic Communication Networks and Services - 3rd Reading Debate.” <http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20091123&secondRef=ITEM-017&language=EN&ring=A7-2009-0070> (May 8, 2013).
- . 2009c. PE-CONS 3677/2009 *Report on the Joint Text Approved by the Conciliation Committee for a Directive of the European Parliament and of the Council on a Common Regulatory Framework for Electronic Communications Networks and Services*. <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A7-2009-70&language=EN> (May 29, 2013).
- . 2011a. “Debates 3rd Reading - Financing Instrument for Development Cooperation - Banana Accompanying Measures (A7-0403/2011 - Charles Goerens).” <http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20111130&secondRef=ITEM-017&language=EN&ring=A7-2011-0403> (June 15, 2012).
- . 2011b. “Declarations of Vote on the Financing Instrument for Development Cooperation - Banana Accompanying Measures (A7-0403/2011 - Charles Goerens).” <http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20111201&secondRef=ITEM-006-13&language=EN&ring=A7-2011-0403> (June 11, 2012).
- . 2012. *Codecision and Conciliation - A Guide to How the Parliament Co-legislates Under the Treaty of Lisbon*.

- . “Conciliations and Codecision.” http://www.europarl.europa.eu/code/default_en.htm (January 8, 2010a).
- . “Legislative Observatory - OEIL.” <http://www.europarl.europa.eu/oel/search/search.do> (January 8, 2010b).
- . “Procedure File of the Novel Foods Regulation - 2008/0002(COD).” <http://www.europarl.europa.eu/oel/popups/ficheprocedure.do?reference=2008/0002%28COD%29&lg=en#externalLinks> (June 11, 2012c).
- . “Procedure File of the Port Services - 2001/0047(COD).” <http://www.europarl.europa.eu/oel/popups/ficheprocedure.do?id=20625> (June 11, 2012d).
- . “Procedure File of the Working Time Directive 2004/0209(COD).” <http://www.europarl.europa.eu/oel/popups/ficheprocedure.do?reference=2004/0209%28COD%29&l=en#tab-0> (June 11, 2012e).
- European Union. 2008. *Treaty on the Functioning of the European Union*. <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML> (October 10, 2011).
- Farrell, Henry, and Adrienne Héritier. 2003. “Formal and Informal Institutions Under Codecision: Continuous Constitution-Building in Europe.” *Governance: An International Journal of Policy, Administration, and Institutions* 16(4): 577–600.
- . 2004. “Interorganizational Negotiation and Intraorganizational Power in Shared Decision Making Early Agreements Under Codecision and Their Impact on the European Parliament and Council.” *Comparative Political Studies* 37(10): 1184–1212.
- Fearon, James D. 1994. “Domestic Political Audiences and the Escalation of International Disputes.” *The American Political Science Review* 88(3): 577–92.
- . 1997. “Signaling Foreign Policy Interests: Tying Hands Versus Sinking Costs.” *The Journal of Conflict Resolution* 41(1): 68–90.
- Ferejohn, John. 1975. “Who Wins in Conference Committee?” *The Journal of Politics* 37(4): 1033–46.
- Fortunato, David, Thomas König, and Sven-Oliver Proksch. forthcoming. “Government Agenda-Setting and Bicameral Conflict Resolution.” *Political Research Quarterly*.
- Franchino, Fabio. 2007. *The Powers of the Union: Delegation in the EU*. Cambridge University Press.

- Franchino, Fabio, and Camilla Mariotto. forthcoming. "Explaining Negotiations in the Conciliation Committee." *European Union Politics*.
- Gabel, Matthew, and Simon Hix. 2002. "Defining the Eu Political Space: An Empirical Study of the European Elections Manifestos, 1979-1999." *Comparative Political Studies* 35(8): 934–64.
- Gailmard, Sean, and Thomas H. Hammond. 2011. "Intercameral Bargaining and Intracameral Organization in Legislatures." *The Journal of Politics* 73(2): 535–46.
- Garman, Julie, and Louise Hilditch. 1998. "Behind the Scenes: An Examination of the Importance of the Informal Processes at Work in Conciliation." *Journal of European Public Policy* 5: 271–84.
- Garrett, Geoffrey. 1995. "From the Luxembourg Compromise to Codecision: Decision Making in the European Union." *Electoral Studies* 14(3): 289–308.
- Garrett, Geoffrey, and George Tsebelis. 1996. "An Institutional Critique of Intergovernmentalism." *International Organization* 50(2): 269–99.
- Groseclose, Tim, and Nolan McCarty. 2001. "The Politics of Blame: Bargaining before an Audience." *American Journal of Political Science* 45(1): 100–119.
- Gross, Donald A. 1980. "House-Senate Conference Committees: A Comparative-State Perspective." *American Journal of Political Science* 24(4): 769–78.
- . 1983. "Conference Committees and Levels of Interchamber Disagreement: A Comparative State Perspective." *State & Local Government Review* 15(3): 130–33.
- Haas, Ernst B. 1958. *The Uniting of Europe; Political, Social, and Economic Forces, 1950-1957*. Stanford University Press.
- Häge, Frank M. 2007. "Committee Decision-making in the Council of the European Union." *European Union Politics* 8(3): 299–328.
- . 2008. "Who Decides in the Council of the European Union?" *JCMS: Journal of Common Market Studies* 46(3): 533–58.
- Häge, Frank M., and Michael Kaeding. 2007. "Reconsidering the European Parliament's Legislative Influence: Formal Vs. Informal Procedures." *Journal of European Integration* 29: 341–61.
- Hagemann, Sara. 2007. "Applying Ideal Point Estimation Methods to the Council of Ministers." *European Union Politics* 8(2): 279–296.

- Hagemann, Sara, and Bjorn Hoyland. 2008. "Parties in the Council?" *Journal of European Public Policy* 15(8): 1205.
- . 2010. "Bicameral Politics in the European Union." *Journal of Common Market Studies* 48(4): 811–33.
- Hall, Peter A., and Rosemary C. R. Taylor. 1996. "Political Science and the Three New Institutionalisms*." *Political Studies* 44(5): 936–57.
- Hayes-Renshaw, Fiona, Wim Van Aken, and Helen Wallace. 2006. "When and Why the EU Council of Ministers Votes Explicitly." *JCMS: Journal of Common Market Studies* 44(1): 161–94.
- Hix, Simon. 2002. "Constitutional Agenda-Setting Through Discretion in Rule Interpretation: Why the European Parliament Won at Amsterdam." *British Journal of Political Science* 32(02): 259–80.
- Hix, Simon, and Bjorn Hoyland. 2011. *The Political System of the European Union*. 3rd Edition. Palgrave Macmillan.
- Hix, Simon, and Abdul Noury. 2009. "After Enlargement: Voting Patterns in the Sixth European Parliament." *Legislative Studies Quarterly* 34: 159–74.
- Hix, Simon, Abdul Noury, and Gérard Roland. 2005. "Power to the Parties: Cohesion and Competition in the European Parliament, 1979–2001." *British Journal of Political Science* 35(02): 209–34.
- . 2007. *Democratic Politics in the European Parliament*. Cambridge University Press.
- . 2009. "Voting Patterns and Alliance Formation in the European Parliament." *Philosophical Transactions of the Royal Society B: Biological Sciences* 364(1518): 821–31.
- Hoffmann, Stanley. 1966. "Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe." *Daedalus* 95(3): 862–915.
- Hosli, Madeleine O., Mikko Mattila, and Marc Uriot. 2011. "Voting in the Council of the European Union after the 2004 Enlargement: A Comparison of Old and New Member States." *JCMS: Journal of Common Market Studies*: 01–22.
- Hoyland, Bjorn. 2006. "Allocation of Codecision Reports in the Fifth European Parliament." *European Union Politics* 7(1): 30–50.
- Huber, John D, and Charles R Shipan. 2002. *Deliberate Discretion? The Institutional Foundations of Bureaucratic Autonomy*. Cambridge: Cambridge University Press.

- Hug, Simon. 2009. "Strategic Voting in a Bicameral Setting." In University of Mannheim, 21.
- Ingberman, Daniel E., and Dennis A. Yao. 1991. "Presidential Commitment and the Veto." *American Journal of Political Science* 35(2): 357–89.
- Kalandrakis, Tasos. 2004. "Bicameral Winning Coalitions and Equilibrium Federal Legislatures." *Legislative Studies Quarterly* 29(1): 49–79.
- Kanter, Arnold. 1972. "Congress and the Defense Budget: 1960-1970." *The American Political Science Review* 66(1): 129–43.
- Kardasheva, Raya. forthcoming. "Trilogues in the EU Legislature." *European Union Politics*.
- Kasack, Christiane. 2004. "The Legislative Impact of the European Parliament Under the Revised Co-Decision Procedure: Environmental, Public Health and Consumer Protection Policies." *European Union Politics* 5(2): 241–60.
- Klüver, Heike. 2009. "Measuring Interest Group Influence Using Quantitative Text Analysis." *European Union Politics* 10(4): 535–549.
- König, Thomas. 2001. "Bicameralism and Party Politics in Germany: An Empirical Social Choice Analysis." *Political Studies* 49(3): 411–37.
- . 2008. "Analysing the Process of EU Legislative Decision-Making: To Make a Long Story Short..." *European Union Politics* 9(1): 145–65.
- König, Thomas, and Thomas Brauninger. 2004. "Accession and Reform of the European Union: A Game-Theoretical Analysis of Eastern Enlargement and the Constitutional Reform." *European Union Politics* 5(4): 419–39.
- König, Thomas, Björn Lindberg, Sandra Lechner, and Windfried Pohlmeier. 2007. "Bicameral Conflict Resolution in the European Union: An Empirical Analysis of Conciliation Committee Bargains." *British Journal of Political Science* 37(02): 281–312.
- König, Thomas, George Tsebelis, and Marc Debus. 2010. *Reform Processes and Policy Change: Veto Players and Decision-Making in Modern Democracies*. Springer-Verlag.
- Krehbiel, Keith, Kenneth A. Shepsle, and Barry R. Weingast. 1987. "Why Are Congressional Committees Powerful?" *The American Political Science Review* 81(3): 929–45.
- Kreppel, Amie. 2002. "Moving Beyond Procedure." *Comparative Political Studies* 35(7): 784–813.

- Krippendorff, Klaus. 2004. *Content Analysis: An Introduction to Its Methodology*. SAGE.
- Laver, Michael, Kenneth Benoit, and John Garry. 2003. "Extracting Policy Positions from Political Texts Using Words as Data." *The American Political Science Review* 97(2): 311–31.
- Levmore, Saul. 1992. "Bicameralism: When Are Two Decisions Better Than One?" *International Review of Law and Economics* 12(2): 145–62.
- Long, Scott, and Jeremy Freese. 2001. *Regression Models for Categorical for Categorical Dependent Variables Using Stata*. Stata Press Publication.
- Longley, Lawrence D., and Walter J. Oleszek. 1989. *Bicameral Politics: Conference Committees in Congress*. Yale University Press.
- Lowe, Will. 2008. "Understanding Wordscores." *Political Analysis* 16(4): 356–371.
- . "Software - JFreq." <http://conjugateprior.org/software/jfreq/> (September 22, 2010).
- Majone, Giandomenico. 2005. *Dilemmas of European Integration: The Ambiguities and Pitfalls of Integration by Stealth*. OUP Oxford.
- Malhère, Manon. 2012. "EP and Council Battle It Out over Delegated Acts." *Europolitics*. <http://www.europolitics.info/institutions/ep-and-council-battle-it-out-over-delegated-acts-art325507-33.html> (June 7, 2013).
- Mamadouh, Virginie, and Tapio Raunio. 2003. "The Committee System: Powers, Appointments and Report Allocation*." *JCMS: Journal of Common Market Studies* 41(2): 333–51.
- Matthews, Steven A. 1989. "Veto Threats: Rhetoric in a Bargaining Game." *The Quarterly Journal of Economics* 104(2): 347–69.
- Mattila, Mikko. 2004. "Contested Decisions: Empirical Analysis of Voting in the European Union Council of Ministers." *European Journal of Political Research* 43(1): 29–50.
- . 2009. "Roll Call Analysis of Voting in the European Union Council of Ministers after the 2004 Enlargement." *European Journal of Political Research* 48(6): 840–57.
- Mattila, Mikko, and Jan-Erik Lane. 2001. "Why Unanimity in the Council?" *European Union Politics* 2(1): 31–52.
- McCarty, Nolan. 1997. "Presidential Reputation and the Veto." *Economics and Politics* 9(1): 1–26.

- . 2000a. "Presidential Pork: Executive Veto Power and Distributive Politics." *The American Political Science Review* 94(1): 117–29.
- . 2000b. "Proposal Rights, Veto Rights, and Political Bargaining." *American Journal of Political Science* 44(3): 506–22.
- McCarty, Nolan, and Michael Cutrone. "Does Bicameralism Matter?" In *The Oxford Handbook of Political Economy*,.
- McCarty, Nolan M. 1997. "Presidential Reputation and the Veto." *Economics & Politics* 9(1): 1–26.
- McCarty, Nolan M., and Adam Meirowitz. 2007. *Political Game Theory: An Introduction*. Cambridge University Press.
- McElroy, Gail. 2006. "Committee Representation in the European Parliament." *European Union Politics* 7(1): 5–29.
- . 2007. "Legislative Politics as Normal?: Voting Behaviour and Beyond in the European Parliament." *European Union Politics* 8(3): 433–48.
- McElroy, Gail, and Kenneth Benoit. 2007. "Party Groups and Policy Positions in the European Parliament." *Party Politics* 13(1): 5–28.
- . 2010. "Party Policy and Group Affiliation in the European Parliament." *British Journal of Political Science* 40(02): 377–98.
- Mesquita, Bruce Bueno de, and Frans N. Stokman. 1994. *European Community Decision Making: Models, Applications, and Comparisons*. Yale University Press.
- Moravcsik, Andrew. 1991. "Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community." *International Organization* 45(1): 19–56.
- . 1993. "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach." *Journal of Common Market Studies* 31(4): 473–524.
- . 1998. *The Choice for Europe: Social Purpose And State Power from Messina to Maastricht*. 1st ed. Routledge.
- . 1999. "A New Statecraft? Supranational Entrepreneurs and International Cooperation." *International Organization* 53(2, Spring): 267–306.
- Morrow, James D. 1994. *Game Theory for Political Scientists*. Princeton Univ Pr.

- Moser, Peter. 1996. "The European Parliament as a Conditional Agenda Setter: What Are the Conditions? A Critique of Tsebelis (1994)." *The American Political Science Review* 90(4): 834–38.
- Napel, Stefan. 2002. *Bilateral Bargaining: Theory and Applications*. Berlin; New York: Springer.
- Napel, Stefan, and Mika Widgrén. 2003. *Bargaining and Distribution of Power in the EU's Conciliation Committee*. CESifo Group Munich. http://ideas.repec.org/p/ces/ceswps/_1029.html (September 14, 2011).
- . 2006. "The Inter-Institutional Distribution of Power in EU Codecision." *Social Choice and Welfare* 27(1): 129–54.
- Naurin, Daniel, and Anne Rasmussen. 2011. "New External Rules, New Internal Games: How the EU Institutions Respond When Inter-institutional Rules Change." *West European Politics* 34: 1–17.
- Naurin, Daniel, and Helen Wallace. 2010. *Unveiling the Council of the European Union: Games Governments Play in Brussels*. Palgrave Macmillan.
- Neuendorf, Kimberly A. 2002. *The Content Analysis Guidebook*. Sage Publications.
- "Notepad++." <http://notepad-plus-plus.org/> (December 15, 2010).
- Official Journal of the European Union. 2007. *Joint Declaration on Practical Arrangements for the Codecision Procedure (Article 251 of the EC Treaty)* OJ C 145/5 30.6.2007.
- . *European Council Decision on the Exercise of the Presidency of the Council* OJ 315/50 2.12.2009
- . 2011. *Rules of Procedure of the European Parliament - 7th Parliamentary Term*.
- Ortega, Lydia, and Lawrence McQuillan. 1996. "Why Does the Senate 'Win' in Conference Committee?: A Stability Explanation." *Public Choice* 87(1/2): 101–16.
- Osborne, Martin J. 2004. *An Introduction to Game Theory*. Oxford University Press.
- Osborne, Martin J., and Ariel Rubinstein. 1994. *A Course in Game Theory*. MIT Press.
- Pollack, Mark A. 2003. *The Engines of European Integration: Delegation, Agency, and Agenda Setting in the EU*. Oxford: Oxford University Press.
- Pollack, Mark A. 1997. "Delegation, Agency, and Agenda Setting in the European Community." *International Organization* 51(1): 99–134.

- Proksch, Sven-Oliver, Johnatan Slapin, and Michael Thies. 2011. "Party System Dynamics in Post-war Japan: A Quantitative Content Analysis of Electoral Pledges." *Electoral Studies* 30(1): 114–24.
- Proksch, Sven-Oliver, and Jonathan B. Slapin. 2009. *WORDFISH: Scaling Software for Estimating Political Positions from Texts*. <http://www.wordfish.org>.
- . 2010. "Position Taking in European Parliament Speeches." *British Journal of Political Science* 40(03): 587–611.
- Putnam, Robert D. 1988. "Diplomacy and Domestic Politics: The Logic of Two-Level Games." *International Organization* 42(3): 427–60.
- Rasmussen, Anne. 2003. "The Role of the European Commission in Co-decision – A Strategic Facilitator Operating in a Situation of Structural Disadvantage." *European Integration online Papers (EIoP)* 7. <http://ideas.repec.org/a/erp/eiopxx/p0102.html> (March 12, 2012).
- . 2005. "EU - Conciliation Delegates: Responsible or Runaway Agents?" *West European Politics* 28(5): 1015.
- . 2008. "The EU Conciliation Committee." *European Union Politics* 9(1): 87 – 113.
- . 2011. "Early Conclusion in Bicameral Bargaining: Evidence from the Co-decision Legislative Procedure of the European Union." *European Union Politics* 12(1): 41 –64.
- . 2012. "Twenty Years of Co-decision Since Maastricht: Inter- and Intrainstitutional Implications." *Journal of European Integration* 34(7): 735–51.
- Reh, Christine, Adrienne Héritier, Edoardo Bressanelli, and Christel Koop. 2011. "The Informal Politics of Legislation: Explaining Secluded Decision Making in the European Union." *Comparative Political Studies*. <http://cps.sagepub.com/pros.lib.unimi.it/content/early/2011/12/05/0010414011426415> (May 17, 2013).
- Riker, William H. 1986. *The Art of Political Manipulation*. Yale University Press.
- . 1992a. "The Justification of Bicameralism." *International Political Science Review / Revue internationale de science politique* 13(1): 101–16.
- . 1992b. "The Merits of Bicameralism." *International Review of Law and Economics* 12(2): 166–68.
- Rittberger, Bethold. 2000. "Impatient Legislators and New Issue-Dimensions: A Critique of the Garrett-Tsebelis 'Standard Version' of Legislative Politics." *Journal of European Public Policy* 7(4): 554–75.

- Rubinstein, Ariel. 1982. "Perfect Equilibrium in a Bargaining Model." *Econometrica* 50(1): 97–109.
- De Ruiter, Rik, and Christine Neuhold. 2012. "Why Is Fast Track the Way to Go? Justifications for Early Agreement in the Co-Decision Procedure and Their Effects." *European Law Journal* 18(4): 536–54.
- Schelling, Thomas C. 1960. *The Strategy of Conflict*. Harvard University Press.
- Schmitter, Philippe C. 2005. "Ernst B. Haas and the Legacy of Neofunctionalism." *Journal of European Public Policy* 12(2): 255.
- Schneider, Gerald, Daniel Finke, and Stefanie Bailer. 2010. "Bargaining Power in the European Union: An Evaluation of Competing Game-Theoretic Models." *Political Studies* 58(1): 85–103.
- Scully, Roger M. 1997a. "The European Parliament and Co-decision: A Rejoinder to Tsebelis and Garrett." *The Journal of Legislative Studies* 3(3): 93–103.
- . 1997b. "The European Parliament and the Co-decision Procedure: A Reassessment." *The Journal of Legislative Studies* 3(3): 58–73.
- Shackleton, Michael. 2000. "The Politics of Codecision." *JCMS: Journal of Common Market Studies* 38(2): 325–42.
- Shackleton, Michael, and Tapio Raunio. 2003. "Codecision Since Amsterdam: a Laboratory for Institutional Innovation and Change." *Journal of European Public Policy* 10(2): 171–88.
- Shepsle, Kenneth A., and Barry R. Weingast. 1987. "The Institutional Foundations of Committee Power." *The American Political Science Review* 81(1): 85–104.
- Slapin, Jonathan B., and Sven-Oliver Proksch. 2008. "A Scaling Model for Estimating Time-Series Party Positions from Texts." *American Journal of Political Science* 52(3): 705–22.
- . 2010. "Look Who's Talking: Parliamentary Debate in the European Union." *European Union Politics* 11(3): 333–57.
- Snyder, Glenn Herald, and Paul Diesing. 1977. *Conflict Among Nations: Bargaining, Decision Making, and System Structure in International Crises*. Princeton University Press.
- Steunenberg, Bernard. 1994. "Decision Making Under Different Institutional Arrangements: Legislation by the European Community." *Journal of Institutional and Theoretical Economics (JITE) / Zeitschrift für die gesamte Staatswissenschaft* 150(4): 642–69.

- . 1997. "Codecision and Its Reform: A Comparative Analysis of Decision Making Rules in the European Union." In *Political Institutions and Public Policy: Perspective on European Decision-Making*, Kluwer Academic Publishers, 205–29.
- Steunenberg, Bernard, and Antoaneta Dimitrova. 1999. "Interests, Legitimacy, and Constitutional Choice: The Extension of the Codecision Procedure in Amsterdam.", Workshop 'Enlarging or Deepening: European Integration at the Crossroads', Joint sessions of workshops of the European Consortium for Political Science Research (ECPR)
- Stiglitz, Joseph, and Andrew Weiss. 1990. *Sorting Out the Differences Between Signaling and Screening Models*. National Bureau of Economic Research. Working Paper. <http://www.nber.org/papers/t0093> (October 9, 2012).
- Stock, James H., and Mark W. Watson. 2006. *Introduction to Econometrics, 2nd Edition*. 2nd ed. Addison Wesley.
- Stokman, Frans, and Robert Thomson. 2004. "Winners and Losers in the European Union." *European Union Politics* 5(1): 5–23.
- Strom, Gerald S., and Barry S. Rundquist. 1977. "A Revised Theory of Winning in House-Senate Conferences." *The American Political Science Review* 71(2): 448–53.
- Tallberg, Jonas. 2003. "The Agenda-shaping Powers of the EU Council Presidency." *Journal of European Public Policy* 10(1): 1–19.
- . 2004. "The Power of the Presidency: Brokerage, Efficiency and Distribution in EU Negotiations." *Journal of Common Market Studies* 42: 999–1022.
- . 2006. *Leadership and Negotiation in the European Union*. Cambridge University Press.
- . 2008. "Bargaining Power in the European Council." *JCMS: Journal of Common Market Studies* 46(3): 685–708.
- Thomson, Robert. 2008. "The Council Presidency in the European Union: Responsibility with Power*." *JCMS: Journal of Common Market Studies* 46(3): 593–617.
- . 2011. *Resolving Controversy in the European Union: Legislative Decision-Making Before and After Enlargement*. 1st ed. Cambridge University Press.
- Thomson, Robert, and Madeleine O. Hosli. 2006. "Who Has Power in the EU? The Commission, Council and Parliament in Legislative Decision-making*." *JCMS: Journal of Common Market Studies* 44(2): 391–417.

- Thomson, Robert, Frans Stokman, Christopher H. Achen, and Thomas König. 2006. *The European Union Decides*. Cambridge University Press.
- Toshkov, Dimitar, and Anne Rasmussen. 2012. "Time to Decide: The Effect of Early Agreements on Legislative Duration in the EU." *European Integration Online Papers-Eiop* 16(11): 1–20.
- Tsebelis, George. 1991. *Nested Games: Rational Choice in Comparative Politics*. University of California Press.
- . 1994. "The Power of the European Parliament as a Conditional Agenda Setter." *The American Political Science Review* 88(1): 128–42.
- . 1995. "Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism." *British Journal of Political Science* 25(3): 289–325.
- . 2002. *Veto Players: How Political Institutions Work*. Princeton University Press.
- Tsebelis, George, and Geoffrey Garrett. 1997. "Agenda Setting, Vetoes and the European Union's Co-decision Procedure." *The Journal of Legislative Studies* 3(3): 74.
- . 2000. "Legislative Politics in the European Union." *European Union Politics* 1(1): 9–36.
- . 2001. "The Institutional Foundations of Intergovernmentalism and Supranationalism in the European Union." *International Organization* 55(02): 357–90.
- Tsebelis, George, Christian Jensen, Anastassios Kalandrakis, and Amie Kreppel. 2001. "Legislative Procedures in the European Union: An Empirical Analysis." *British Journal of Political Science* 31(04): 573–99.
- Tsebelis, George, and Jeannette Money. 1997. *Bicameralism*. Cambridge: Cambridge University Press.
- Tsebelis, George, and Xenophon Yataganas. 2002. "Veto Players and Decision-making in the EU After Nice." *JCMS: Journal of Common Market Studies* 40(2): 283–307.
- Vanberg, Georg. 2001. "Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review." *American Journal of Political Science* 45(2): 346.
- Vander Wielen, Ryan J. 2013. "Why Conference Committees? A Theory of Conference Use in Structuring Bicameral Agreement." *Journal of Theoretical Politics* 25(1): 3–35.

- Vandystadt, Nathalie. 2009a. "Amendment 138: EU Wants to Avoid Confrontation." <http://www.europolitics.info/amendment-138-eu-wants-to-avoid-confrontation-art253326-1.html> (May 29, 2013).
- . 2009b. "EP Adopts ex-Amendment 138, Sends Package into Conciliation." <http://www.europolitics.info/ep-adopts-ex-amendment-138-sends-package-into-conciliation-art214157-7.html> (May 29, 2013).
- Vogler, David J. 1970. "Patterns of One House Dominance in Congressional Conference Committees." *Midwest Journal of Political Science* 14(2): 303–20.
- Warntjen, Andreas. 2007. "Steering the Union. The Impact of the EU Presidency on Legislative Activity in the Council*." *JCMS: Journal of Common Market Studies* 45(5): 1135–57.
- . 2008. "The Council Presidency Power Broker or Burden? An Empirical Analysis." *European Union Politics* 9(3): 315–38.
- . 2012. "Measuring Salience in EU Legislative Politics." *European Union Politics* 13(1): 168–82.
- Yordanova, N. 2011. "The European Parliament: In Need of a Theory." *European Union Politics* 12(4): 597–617.
- Yordanova, Nikoleta. 2009. "The Rationale Behind Committee Assignment in the European Parliament Distributive, Informational and Partisan Perspectives." *European Union Politics* 10(2): 253–80.
- Zimmer, Christina, Gerald Schneider, and Michael Dobbins. 2005. "The Contested Council: Conflict Dimensions of an Intergovernmental EU Institution." *Political Studies* 53(2): 403–22.